

RIGHTS CLAIMS AND CONFLICT
TRANSFORMATION IN INDIGENOUS CONTEXTS

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Rights Claims and Conflict Transformation in Indigenous Contexts

The Case of the Awajún in Peru

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Abstract

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This dissertation examines how conflicts between the Peruvian State and the indigenous Awajún people can be transformed and further escalation prevented by focusing on rights claims. This study analyses the Awajún's main rights claims, their perspective on their relationship with the Peruvian State including the main causes of conflict and their views on what the key aspects of conflict transformation with the State should be.

The research is focused on the perspective of the indigenous people, not only in the light of the research objectives but also because a decolonized approach that gives voice to the indigenous perspective is the most culturally appropriate approach for an outsider researcher to carry out research with indigenous people. In order to ensure a decolonized research design, one-on-one, in-depth interviews were selected for data collection since these allow a maximum input of the participants and provide the kind of detailed and rich information that is required for this study.

Findings illustrate that a rights-based conflict transformation approach, which applies the typical aspects of a rights-based approach focusing on the specific collective rights claims of the Awajún as well as the main principles of conflict transformation focusing on improving relationships, offers the best prospects of preventing violent confrontations.

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Chapter One: Introduction

It has been estimated that there are 370 million indigenous people residing in approximately 70 countries from the Arctic to the South Pacific. Indigenous people remain among the poorest and most marginalized groups in societies around the world, both in developing and in developed countries, and the poverty gap between indigenous and non-indigenous groups is still widening in many countries (UNPFII 2015). They are at far greater risk of not having access to education, clean water and safe housing, of ending up in prison, and of dying during pregnancy or childbirth than non-indigenous people (IWGIA 2015). They are often isolated politically and socially by the geographical location of their communities, their separate histories, cultures, languages and traditions (UNPFII 2015).

In addition to the non-fulfilment of their basic needs and rights as human beings, indigenous peoples also have to deal with continuous violations of their specific rights as indigenous peoples, including their rights to self-determination and to their traditional territories and natural resources. These indigenous rights are essential to the survival of indigenous peoples and it should therefore not be a surprise that these rights violations have led to strong rights claims and conflicts around the world, sometimes even resulting in the outbreak of violence and death.

This dissertation examines how conflicts between the Peruvian State and the indigenous Awajún people can be transformed and further escalation prevented by analysing the Awajún's main rights claims. This research focuses on rights claims since it has been established in existing literature and practice that conflicts involving the State and an indigenous people are usually rights-based and therefore mostly caused by the non-fulfilment or violation of a right (Roy *et al* 2004). This study focuses on the perspective of the indigenous people, not only in the light of the research objectives but also because a decolonized approach that gives voice to the indigenous perspective is the most culturally appropriate approach for an outsider researcher to carry out research with indigenous people. In order to ensure a decolonized research design and

minimize the influence of an outsider researcher on the results, it was decided to apply a qualitative, exploratory approach using one-on-one, in-depth interviews as the data collection method since it allows a maximum input of the participants and provides the kind of rich information that is required for this study. Instead of confirming a pre-determined hypothesis, a theory on conflict transformation for conflicts between the Peruvian State and the Awajún was derived from the data itself. The latter was obtained iteratively from the moderately unstructured interviews with Awajún participants. Participants were asked a few general questions to start and direct the conversation towards the subject of research but it was left mainly up to the participants to determine the direction of the interview. From their responses, main ideas, patterns and connections concerning their rights as indigenous, conflict transformation and relationship with the State were studied and interpreted resulting in a theory on conflict transformation for conflicts between the State and the Awajún.

The Awajún, one of the largest Amazonian indigenous peoples of Peru, was selected as case study because of their long history of rights claims and conflicts with the State, which can be considered as representative of conflicts between the Peruvian State and indigenous people in general. It was opted to collaborate with an Awajún researcher for the field research in order to gather views and opinions on subjects that some participants could consider sensitive or political and which they would less likely share with an outsider than with a fellow Awajún. In addition, this collaborative approach also advances the decolonized character of this research by ensuring that the indigenous perspective is represented correctly and by allowing participants to answer in their native Awajún language.

In order to identify how conflicts between the Peruvian State and the indigenous Awajún people can be transformed, the following research questions are studied:

- What is the current state of indigenous rights realization on paper and in practice?
- What are the main rights claims of the Awajún?
- How do the Awajún characterize their relationship with the State?

- What are the main causes of current conflict between the State and the Awajún?
- How can this relationship be improved and future confrontations prevented according to the Awajún?
- What are the main aspects of a conflict transformation approach for conflicts between the State and the Awajún?

In this chapter, the main concepts of rights claims and conflict transformation are first defined and discussed. Subsequently, a conflict transformation approach based on rights claims is outlined and it is considered why rights claims play an essential role in a conflict transformation approach for indigenous contexts.

1.1. Rights claims

The concept of having rights and duties as members of a group was addressed in written sources as old as the Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran and the Analects of Confucius (Human Rights Resource Center 1998). However, the concept of human rights, i.e. the belief that every human is entitled to certain universal rights, is fairly new. The end of the Second World War not only led to the founding of the United Nations (UN) but also to the emergence of the idea of establishing human rights standards to protect citizens from abuses by their governments and to make sure governments can be held accountable for violations of these rights (Human Rights Resource Center 1998).

These fundamental rights were announced in the UN Charter and formulated in the Universal Declaration of Human Rights (UDHR) of 1948. The significant impact of the UDHR continues as its principles have been integrated into the constitutions of most UN member countries (OHCHR 1996). The UDHR is not legally binding because of its status as a declaration, but it is enforced by two treaties, i.e. the International Covenant on Civil and Political Rights (ICCPR), ratified by 169 countries, and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by 165 countries.¹ Both instruments

¹ The US has signed the Covenant but has not ratified it.

prohibit any kind of discrimination but the ICCPR focuses on issues such as the rights to life and security of person, freedom of movement, speech and religion, and voting rights while the ICESCR focuses on issues as the rights to work, health, shelter, education, a decent standard of living and to take part in cultural life (OHCHR 1996). Both covenants include the right to self-determination for all peoples and to “freely determine their political status and freely pursue their economic, social and cultural development” (OHCHR 1996).

UDHR, ICCPR and ICESCR together form the International Bill of Human Rights. Many more international human rights instruments were subsequently developed on a range of issues such as work, social welfare, imprisonment or health and for a range of specific groups of people such as women, children, persons with a disability, migrants and indigenous people. Besides the UN instruments, there are also regional human rights instruments such as the American Convention on Human Rights, the African Charter on Human and Peoples’ Rights and the European Convention on Human Rights.

1.1.1. Main characteristics of human rights

Human rights are the basic standards for a life in dignity and are held by all persons equally and universally. They are inalienable, i.e. they cannot be lost, and they are necessarily indivisible and interdependent, which means that the realization of one right often depends, wholly or in part, on the realization of others. In other words, they are causally linked, and can mutually reinforce each other (HDR 2001; CDHR 2004). Therefore, the struggle to achieve one right should not be separated from the achievement of another, no matter if these are civil, cultural, economic, political or social rights. In theory, this implies that efforts to promote human rights should address all human rights, and not just focus on one. In practice, it is very hard to achieve all rights simultaneously, and therefore the minimum standard for any initiative is to at least not cause a regression from the prevailing situation. This is the notion of non-retrogression (Uvin 2004).

The promotion of human rights involves three essential duties: to respect, protect and provide rights. The duty to respect requires not to reduce directly or

indirectly people's rights and to tackle discriminatory practices within the own organization (Uvin 2004). For a State, this implies that it should "formulate policies that create ... an economic, social and political environment conducive to the enjoyment ... of all rights and freedoms" (Diokno 2004: 18). While there might be consensus on the validity of this duty, how to fulfill it remains contested. The duty to protect rights entails taking measures that prevent third parties from violating the rights of others by for instance supporting people in their fight to attain their rights, putting pressure on those responsible for human rights violations and promoting the establishment of mechanisms of accountability and redress (OHCHR 2002; Uvin 2004). Ultimately, the duty to fulfill rights means that duty-bearers should strive for the strengthening of actors' capacities to achieve their own rights. This includes adopting appropriate legislative, administrative and other measures to ensure the full enjoyment of fundamental rights and freedoms (OHCHR 2002; Uvin 2004).

The concept of human rights involves duty-bearers and right-holders. In most contexts, the State is the main duty-holder (Uvin 2007; Gready 2008; Parlevliet 2010b; GIZ 2011; Gauri and Gloppen 2012). By signing international human rights instruments, States have acknowledged the primary responsibility to respect, protect and provide human rights (OHCHR 2002) and the fundamental obligation to "take whatever necessary steps that will allow them to ... achieve progressively the full realization of human rights" (Diokno 2004).

Because human rights set minimum standards for how the State and other duty-holders should treat people, it provides individuals and groups with a framework for action when those minimum standards are not met. Therefore, the most vulnerable and marginalized segments of society are no longer passive recipients of aid but are active actors who can and should shape their own fate (Offenheiser and Holcombe 2003; Tsikata 2004). A focus on human rights instead of on needs offers the possibility of employing a different lens for analysing problems as poverty and deprivation in terms of rights violations. If a poor inhabitant of the slums of Lima, Peru does not have enough food to feed his family, such a rights-based approach would claim that this person's right to food is violated, rather than citing solely economic causes. It would aim to identify the people who are affected by the violation, the right-holders, and the

ones responsible for the violation, the duty-holders (Uvin 2007). This different human rights lens thus attempts to address the root causes of poverty, discrimination and exclusion, by aiming to transform unequal power relations instead of just dealing with the visible consequences of poverty by providing services. For instance, adherents of this approach may consider it more valuable and more legitimate to pressure the World Bank or IMF to change structural adjustment policies that intensify poverty than to fund the building of a new school (Offenheiser & Holcombe 2003). Wayne Ellwood illustrates this as follows: “If you see a baby drowning, you jump to save it; and if you see a second and a third you do the same. Soon you are so busy saving drowning babies, you never look up to see there is someone there throwing these babies in the river” (Cited in: Mander 2005: 235).

However, even though human rights seem widely accepted nowadays, there are two major opposing views on their validity, i.e. the universalist and the relativist view. The former believes that human rights are universal and therefore apply to everyone, whatever their race, gender, religion, culture, history or current practices (Campbell 2006). In a simplistic understanding, this implies that human rights will be applied in the same way regardless of context and without considering cultural difference (Ife 2007). In contrast, the American Anthropological Association’s Statement on Human Rights (1947) advocates the relativist view that: “Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole” (Cited in: Renteln 1990: 83). Relativists maintain that human rights are historically and culturally determined, and are therefore inseparable from their Western origins in the Enlightenment and as such are part of an ‘idealist European political philosophy’ (Wilson 1997). A similar critique of human rights as an ideology of Western individualism and liberalism was already expressed by Karl Marx in 1977. He asserted that human rights are an “ethnocentric extension of European concepts of individualistic rights to societies with more communalistic political traditions” (Wilson 1997). In short, cultural relativists believe that human rights are essentially Western values and are not applicable to other cultures.

But there have been several attempts in literature to reconcile the tension between universalism and cultural relativism. According to various authors, universal human rights can become meaningful in local settings by translating and adapting them to the specific local context. This process is referred to as 'localising human rights', which aims to make human rights more locally relevant by interpreting the global norms based on human rights needs and claims formulated by local people and by further interpreting and elaborating human rights at the local and regional levels based on these same needs (De Feyter 2006). According to Sally Engle Merry, intermediaries such as community leaders and local NGOs and social movements play a critical role in this process (Engle Merry 2006).

1.1.2. Indigenous people and human rights

According to cultural relativists, human rights are essentially Western values and are therefore not universal or applicable without profound adaptation to the local culture and context. Even though many indigenous peoples live in Western countries, their traditional cultures are fundamentally non-Western. The question thus arises of how useful the human rights framework is for the rights claims of indigenous people?

Certainly, the human rights that are included in the International Bill of Human Rights as well as in other mentioned international human rights instruments also apply and are relevant to indigenous individuals, such as the right to life, to decent work, to shelter and to an adequate standard of life. Other human rights such as the right to private property, to privacy or to vote and be elected to public office are not always compatible with certain indigenous cultures. Many indigenous peoples still adhere to the concept of communal property instead of private property and to a communal way of life where there is very little privacy. Similarly, many indigenous communities or nations have maintained their traditional organizational structures, without democratic elections in which everyone can vote or be elected to leadership positions. In these cases, the cultural relativist claims appear to be valid, i.e. these human rights standards are not adapted to non-Western realities and values such as those of

indigenous peoples. In addition, while the human rights included in the International Bill of Human Rights might offer a certain protection to indigenous individuals, they do not cover many of the issues that are also paramount for the survival of indigenous peoples, such as the protection of their traditional lands and resources. This is mainly because these human rights instruments focus almost exclusively on the rights of individuals and even though many of these are applicable to indigenous individuals as well, indigenous peoples require in addition rights of a collective nature, which protect them as a people, as a collectivity. Collective rights will be further discussed below.

However, many of the characteristics of human rights that were discussed above are useful for and applicable to indigenous peoples' claiming of rights. As mentioned above, many indigenous peoples are still among the world's poorest and most marginalized groups. Within a rights framework, their poverty is reformulated from a denial of basic needs to the non-realization or violation of rights. The rights framework provides minimum standards and these can be used to hold the State accountable in case it does not meet these standards since the State is identified as the duty-bearer and indigenous people as right-holders or claim-holders. This means that the State has the responsibility to respect, protect and provide the rights of indigenous people and if it does not, indigenous people could in theory denounce violations through the national or, in some cases, international legal system. This different rights-based lens empowers indigenous people and transforms them from passive recipients of aid to active claim-holders who have their fate in their own hands. It provides them with the tools to actively participate in changing their current situation, especially with the emergence of specific rights for indigenous peoples and the increasing number of international indigenous rights instruments.

1.1.3. Indigenous rights

The first international body that specifically and comprehensively addressed indigenous rights was the International Labour Organization (ILO) with the Indigenous and Tribal Populations Convention 107 in 1957. While this convention can be regarded as a pioneering document, it still advocated assimilationist goals and referred to indigenous as populations instead of as

peoples in order to avoid sovereignty or self-determination claims. It was indigenous peoples themselves who called for a comprehensive revision of Convention 107 to incorporate more adequate rights standards focused on respect for indigenous cultures instead of on assimilation or integration. This resulted in the Indigenous and Tribal Peoples Convention 169 (1989), which outlined the new standards for indigenous rights and the obligations of those States that ratify it. Notably, the term 'populations' was substituted by 'peoples'. The recognition of indigenous as peoples has substantial implications since both ICCPR and ICESCR granted all peoples with the right to self-determination. To discourage potential separatist claims, however, article 1(3) of ILO Convention 169 added that "(t)he use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law"(ILO 1989b).

Nevertheless, ILO Convention 169 was an important step forward, including such fundamental indigenous rights as the right to consultation on legislative or administrative measures that directly affect indigenous people, the right to their own institutions, the right to determine their own development priorities, and the right to their traditional lands. ILO Convention 169 is of particular importance because it is the only international indigenous rights instrument that is legally binding. Unfortunately, that is also the reason why only 22 countries² have ratified it so far.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is currently the most comprehensive international indigenous rights instrument. It was adopted in 2007 by the UN General Assembly by a majority of 144 states in favor, after more than 20 years of negotiations between States and indigenous peoples. What makes UNDRIP so inclusive is that from the early stages of its development indigenous representatives and organizations were actively participating in the drafting. As such, it can be claimed that already some of its principles such as the right to participation and consultation were being applied (IWGIA). However, UNDRIP has the status of a declaration and is therefore not legally binding. It only provides guidelines that should be implemented in good

² States that have ratified ILO Convention 169: Argentina, Bolivia, Brazil, Central African Republic, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Nepal, Netherlands, Nicaragua, Norway, Paraguay, Peru, Spain, Venezuela.

faith by the States. Chapter Four discusses UNDRIP in more detail and analyzes its main articles to determine to which extent these have been incorporated in Peruvian legislation.

1.1.3.1. Collective rights

One of the main characteristics of indigenous rights is their collective nature, i.e. they involve the rights of indigenous as a people, as a collectivity. As mentioned above, the current human rights discourse is still very much centered around individual human rights, which has led to human rights instruments focusing mainly on individual needs and ignoring the collective nature of groups with non-Western, non-individualistic worldviews (Corntassel and Holder 2002). However, the protection of minorities in general, which includes indigenous peoples, can only be achieved by “transcending the still dominant framework of individual rights and incorporating the concept of collective rights” (Jovanović 2005: 625). There are two theoretical extremes concerning collective rights: the dominant liberal-individualist theory, which claims that a group can ultimately be reduced to its individual members (Corntassel and Holder 2002) and the corporate theory, which asserts that certain collectivities have independent standing and are not just the sum of their individual members (Jovanović 2005).

The continued dominance of the individualist discourse can even be seen from some of the central international instruments on the protection of minorities. For instance, Article 27 of ICCPR addresses the rights of “persons belonging to” minorities instead of the minority as a collectivity. UNDRIP, however, seems to break with this dominant rights discourse and clearly distinguishes between the concepts of collective and individual rights. UNDRIP is based on the understanding that indigenous peoples as collectivities have specific rights (Jovanović 2005). Jovanović concludes that “sustaining a coherent concept of collective rights requires recognition of the intrinsic, non-instrumental value of certain collective entities and of the fact that not all groupings are entitled to be moral and legal rights bearers” (Jovanović 2005: 625). A difference has to be made between a true collectivity with a standing independent from its individual members and therefore with a potential right-holder status on the one hand and a group without a moral subjectivity that is irreducible to its individual members

(Jones 1999). Indigenous peoples belong to the former group and are therefore collective right-holders.

The collective rights of indigenous people range from the right to their own group identity, language, way of life and traditional beliefs in accordance with their own cultural patterns, social institutions and legal systems (ILO 1989a; Daes 1996; UNPFII 2008) to the right to control and manage their traditional lands, territories and natural resources to transmit them to future generations and thus guarantee their survival as a people (UNPFII 2008). UNDRIP is currently the most comprehensive indigenous rights instrument but unlike ILO Convention 169, it is not legally enforceable.

1.1.3.2. Why special rights?

Skeptics question the need for special rights for indigenous people and wonder what makes indigenous peoples different from other marginalized ethnic minorities. It is undoubtedly true that in many cases they have much in common, such as a cultural identity distinct from mainstream society, a history of discrimination and marginalization and the lack of political representation and participation. In some cases, ethnic minorities even have their own languages, traditional customs and way of life and also strive for collective rights (Hooker 2005). While there should be attention paid to the collective rights of ethnic minorities in general, indigenous peoples do have certain specific characteristics that set them apart from other ethnic minorities and that warrant a specific approach, most notably the importance of their ancestral territories. As the Inter-American Court of Human Rights (IAHRC) ruled in the landmark case of *Awas Tingni v. Nicaragua*: “The close ties of indigenous peoples with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival. For indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations” (Inter-American Court of Human Rights 2001). Indigenous peoples do not only have a special relationship to their traditional territories, their physical and cultural survival as a people depends on them. As a result, their

concept of development differs from the Western development model, which is often detrimental to a natural environment and does not imply the sustainable use of natural resources. Contrary to popular belief, indigenous peoples are not against development or progress, instead, they apply their own understanding of development, i.e. one based on their values, priorities, and with the highest respect for their lands and natural surroundings. Indigenous movements have successfully based their rights claims on their identity as distinct peoples with inherent rights to the territories that they inhabited prior to the arrival of current States instead of claiming rights as an oppressed minority, as would be the case for other ethnic minorities such as Afro-Latinos in Latin America (Hooker 2005).

1.1.3.3. Subjects of indigenous rights

The term 'indigenous' and who it applies to have been the subject of several debates and numerous definition attempts. The prevalent view today is that it is neither necessary nor possible to have an official universal definition since the specific contexts of different countries around the world are too different. A single definition would either be too general or exclude groups that should be included (UNPFII 2015). Instead, self-identification as indigenous is generally accepted as the fundamental criterion for a particular group or individual to be considered indigenous, including by the ILO and the UN (ILO 1989b).

However, too strong a focus on self-identification can also be problematic as demonstrated by the elaborate discussions on the issue of defining indigenous during the revision of the Draft Declaration on the Rights of Indigenous Peoples. Several States with an indigenous population were concerned that a broad understanding of who can claim an indigenous status could lead to other ethnic groups claiming an indigenous identity solely to enjoy the protections that are linked to this legal status (Corntassel 2003). This is not only a concern of States but of indigenous peoples as well because they recognize that abuse will likely affect the willingness of States to become parties to international legal instruments protecting indigenous rights and to implement them into their own legislation (Corntassel 2003).

Therefore, while ILO Convention 169, which is legally binding for signatory countries, does not provide a true definition of indigenous peoples, it does specify several criteria in addition to self-identification that help identify indigenous peoples: "... descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions" (ILO 1989b). ILO Convention 169 also applies to 'tribal peoples', who do not have historical continuity as 'indigenous' peoples but "whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations" (ILO 1989b).

The UN system does not make the distinction between tribal and indigenous peoples. They identify rather than define indigenous peoples based on "self-identification as indigenous peoples at the individual level and accepted by the community as their member; historical continuity with pre-colonial and/or pre-settler societies; a strong link to territories and surrounding natural resources; distinct social, economic or political systems; a distinct language, culture and beliefs; form non-dominant groups of society; and a resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities" (UNPFII 2009a).

However, because of a history of discrimination, marginalization and stigma associated with an indigenous identity, many indigenous individuals and groups have rejected the label and term 'indigenous.' This is true for many indigenous groups of the Peruvian Andes who for instance prefer to be categorized as *campesinos* or peasants, referring to their occupational characteristics, instead of as *indigenas*. Nevertheless, because of an increasing level of protection and benefits associated with an indigenous status as well as a growing indigenous rights movement, an indigenous identity has become again a source of pride for many people who once rejected it.

1.1.4. Indigenous rights claims

Indigenous rights claims have evolved from the early days of the international indigenous movement in the 1970s and 1980s when human rights were largely rejected because many indigenous advocates considered them as neocolonial tools while their main aim was to fight and reverse assimilation (Engle 2011). During this time, the international indigenous movement was mainly focused on external self-determination³, i.e. the possibility of statehood, secession or autonomy, using a legal framework based on the creation of liberated nations similar to that previously used by anti-colonialist movements (Moyn 2010). In the late 1980s and early 1990s, the indigenous movement began to embrace the human rights framework and increasingly incorporated rights claiming as their main advocacy strategy. They moved away from statehood and external self-determination and instead strived for cultural and internal self-determination as well as broadening the general human rights framework in order to allow for distinctness within an equality model and enable the inclusion of collective indigenous rights (Engle 2011).

Like other international social movements, the indigenous movement has grown substantially during the 21st century thanks to the increase of their mobilizing capacity due to easier and cheaper international travel, electronic communication and online social networks (Chesters and Welsh 2011). Its current rights claims are based on their special status and distinctness as indigenous peoples, distinct from mainstream society and distinct from other minorities, as was discussed above. Indigenous rights claims refer to the long history of discrimination and marginalization and the extensive list of injustices they had to endure including the dispossession of their ancestral lands and territory and deprivation of self-government, culture, language and identity and in some cases even the genocide of their people. As such, rights claims appeal to the moral claim to right the wrongs of the past and refer to historically and culturally grounded entitlements, including to their ancestral territories, natural resources and self-government. These entitlements are in some cases formulated in treaties or other agreements made with the State in the past

³ Not all indigenous peoples were involved in the early international indigenous movement, depending on their degree of contact with the outside world, their marginalization and the overall context of the time. Peruvian indigenous peoples for instance were at that time not concerned with indigenous rights since they were in the middle of a domestic conflict and were literally fighting for their survival.

(Kingsbury 2002). In other cases, indigenous peoples invoke their historic sovereignty or status as first inhabitants of the territory that now constitutes the State. In any case, one of the main ideas behind the concept of indigenous rights is that these collective rights are inherent to them as indigenous peoples and thus have not been granted by the State or by any international institution.

All indigenous rights claims are based on the right to self-determination, which encompasses all other major indigenous rights. Since this is such a central concept within contemporary indigenous rights claims, further discussion of the concept is warranted.

1.1.5. The indigenous right to self-determination

The foundation of and a prerequisite for all other collective rights and freedoms is the right to self-determination, since it encompasses all aspects of daily life and cultural, social, political and economic development (Muehlebach 2003). The term 'self-determination' in indigenous contexts refers to their collective right of internal self-determination, necessarily including the right to differentiate themselves from the majority by preserving their languages, cultures, and traditions, the right to their traditional territories and natural resources and the right to greater autonomy and decision-making power over issues that affect them as a people (Coffey and Tsosie 2001). Self-determination allows indigenous peoples to preserve and develop their distinctive identities and to enjoy their collective rights and determine their own futures (Anaya 1996).

However, the term 'self-determination' is contentious and has various differing understandings both related to its content as well as to its beneficiaries (Stavenhagen 2005). Still the most common understanding nowadays is the political-legal understanding, which originates from the decolonization period and is often associated with independent statehood and secession (Anaya 2004; Corn tassel 2008). Because of fear for secession and the resulting territorial disintegration, States are often cautious with their support for increased self-determination of peoples within their state borders (Stavenhagen 2005).

According to international law discourse, the right to self-determination belongs to all peoples, but States tend to narrowly define the term 'peoples' as a limited set of groups usually corresponding to the population of a State. This, therefore, restricts the scope of self-determination to States and excludes minority groups within States such as indigenous peoples (Muehlebach 2003). In order to prevent indigenous claims to the right to self-determination, which were believed to imply demands for sovereignty or independent statehood, indigenous groups were referred to as indigenous 'populations' instead of 'peoples' in international law until more recently, which can be noticed from the difference in terminology in the ILO's 1957 and 1989 Conventions, i.e. indigenous populations (ILO 1957) versus indigenous peoples (ILO 1989b).

Self-determination, however, should not be restricted to such a narrow understanding of its content and of its subjects. Former UN Special Rapporteur on the Rights of Indigenous Peoples James Anaya claims that self-determination should be understood as distinct from independent statehood, and instead more nuanced interpretations and applications should be incorporated (Anaya 1990). According to Anaya, "self-determination may be understood as a right of cultural groupings to the political institutions necessary to allow them to exist and develop according to their distinctive characteristics" (Anaya 1990: 842). Shin Imai adds that self-determination implies "the right of a people to decide how it wants to relate to a majoritarian population" (In: Tsosie 2011: 930).

There are different theoretical approaches to how indigenous self-determination in practice should be applied. Different models of self-determination with varying levels of autonomy exist, from sovereignty and self-management to participatory governance (Tsosie 2011). In the case of sovereignty, indigenous peoples have decision-making power over all internal matters while with self-management, the government sets the policies, develops and funds programs and then authorizes the indigenous communities to operate them. Participatory governance entails the full participation of indigenous peoples within the mainstream political system and thus strives for the political integration of indigenous peoples into mainstream society (Tsosie 2011). Taking the principle of self-determination into account, indigenous peoples should be able to decide which kind of model they prefer. In practice, two or more models are often

operated simultaneously (Tsosie 2011).

Federico Lenzerini (2005) argues for 'parallel sovereignty' for indigenous peoples. This entails the idea of indigenous sovereignty as parallel to state sovereignty, meaning that some decision-making shifts to the indigenous Nation. This results in increased indigenous sovereignty while the latter is still subordinated to the sovereignty of the territorial State. In other words, the State can to a certain extent regulate, but not prevent the indigenous exercise of sovereignty.

Many indigenous scholars prefer the cultural sovereignty model of self-determination, which strives for cultural integrity (Coffey and Tsosie 2001; McCue 2007). Cultural sovereignty allows indigenous peoples to exercise their own norms and values and to structure their own futures as a group. This approach is dominant in the indigenous discourse on self-determination (Coffey and Tsosie 2001; McCue 2007). The latter clearly adopts a broader view of self-determination that includes social, economic, cultural and political factors. This self-determination is inherent to a people and is therefore not granted by the State. Its main goal is a community-based, sustainable form of self-determination focusing on internal governance, territorial integrity, respect for their natural environment, community well-being, the preservation and transmission of cultural practices to future generations and the implementation of laws based on their traditional values within their territories (Coffey and Tsosie 2001; Muehlebach 2003; McCue 2007; Badger 2011; Fershee 2011).

Indigenous peoples do make use of the mainstream discourse on political self-determination in their struggles for increased internal autonomy over their territories and their people. They do this, however, to protect and defend their culture and identity rather than to separate themselves from the State (Washburn 2006; McCue 2007). Therefore, it can be stated that political and cultural self-determination or sovereignty are inextricably linked because the former is essential in the achievement of the latter (Archer 2012). In other words, indigenous peoples strive for political self-determination in order to protect and realize their cultural self-determination and as such protect their way of life (Washburn 2006).

Because of the importance of culture as well as the cultural diversity among

indigenous peoples, the implementation of localized forms of self-determination is essential. Each indigenous people has to consider its relationship and forms of cooperation with the State and develop its own, unique form of self-determination instead of one, uniform structure being developed and imposed from above (Muehlebach 2003). Self-determination, however, does not necessarily imply democracy since some indigenous peoples might develop a form of self-determination based on their traditional, non-democratic governance systems (Wilson 2012).

Consider for instance the success and failure of self-determination and governance forms of Fort Apache on the one hand and the Pine Ridge Reservation on the other hand, both in the United States. Both have similar forms of government, i.e. a democratically chosen government with a high level of power, but for the Apache, this form of government resembles their traditional form while for the Oglala Lakota of the Pine Ridge Reservation, this form is in contrast with their traditional structures (Cornell and Kalt 1998). The Apache government is successful because of its legitimacy with its people while the Pine Ridge government suffers from a lack of legitimacy and seems therefore less effective (Cornell and Kalt 1998).

Different indigenous peoples strive for varying levels of involvement from the State and distinct types of relations with the government and mainstream society. Most strive for extensive relations with state institutions but some peoples prefer more government involvement while others opt for less (Wilson 2012). At one end of the spectrum, for instance, is the Onondaga Reservation in the State of New York, which refuses all services or benefits from the federal government (Wilson 2012).

UNDRIP has been an important step in the definition and elaboration of the indigenous right to self-determination. The latter is central to UNDRIP, which not only specifically mentions the right of all indigenous peoples to self-determination, but nearly all other articles deal with various aspects of self-determination. It also consistently refers to indigenous as 'peoples', which in international law implies a number of fundamental collective rights (UN 2007). In UNDRIP, the right to self-determination entails the right to their own culture, traditions and customs, the right to their own educational systems, the right to

their traditional lands and natural resources, the right to their own cultural, political, economic, legal and social institutions, the right to autonomy over internal matters and the right to free, prior and informed consent in matters affecting them (UN 2007). However, UNDRIP also makes it clear that self-determination does not mean secession by disapproving "any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States" (UN 2007). Indigenous self-determination is thus specified as having to be achieved within the framework of the existing State, i.e. a model of domestic self-governance rather than independent nationhood.

1.1.5.1. Indigenous self-determination around the world

While there is still a long way to go to guarantee the right to self-determination for indigenous peoples, there are several peoples in different parts of the world who have succeeded in obtaining a more advanced level of self-determination, each with their own practical implementation and type of relationship with the State.

Greenland or *Kalaallit Nunaat* in Inuit has been a self-governing country within the Danish Realm since 1979. In 2009, Greenland entered a new era with the inauguration of the new Act on Self-Government, which gave the country further self-determination within the State of Denmark. Almost 90 percent of Greenland's inhabitants are Inuit. The majority speaks Inuit and Danish is the country's second language. Greenland has a public government, but still receives 50 percent of its budget from Denmark. Therefore, its main aim is to establish a sustainable economy in order to achieve greater independence (IWGIA 2015).

Approximately 4.3 percent of Canadians are considered indigenous. The government of Canada has signed 22 self-government agreements involving 36 First Nations across Canada, of which 18 are part of a Comprehensive Land Claim Agreement.⁴ Self-government agreements give First Nations and the Inuit

⁴ CLCAs are negotiated in areas of the country where Aboriginal rights and titles have not been addressed by historic treaties or other legal means, or where there remains outstanding disagreement around the terms of those treaties. While each CLCA is unique, these

greater control and law-making authority over a comprehensive range of jurisdictions, including governance, social and economic development, education, health and lands (INAC 2015).

There are currently around 566 federally recognized tribes in the United States of America (minus Alaska). These tribes are considered domestic dependent nations with tribal sovereignty. American Indian nations have the right to govern themselves, including forming their own governments, managing tribal property, developing and enforcing both civil and criminal laws, taxing, establishing and determining membership, licensing and regulating activities within their jurisdiction, zoning their lands within the reservation, and excluding persons from tribal lands. Tribes have a government-to-government relationship with the federal government similar to that of states, which means they are exempt from state jurisdiction and taxation (IWGIA 2015). However, tribal sovereignty is not absolute. Firstly, as domestic nations they are unable to engage in foreign relations or print and issue currency. Secondly, tribal sovereignty is limited by individual treaties and by federal Indian Law, which is often dependent on Supreme Court decisions (IWGIA 2015).

In Latin America as well, certain countries have granted different forms and degrees of self-determination. In Panama, for instance, the territories of indigenous nations were demarcated and given the legal status of *comarcas*, within which they can self-govern and implement their own political and administrative structures (IWGIA 2015). In Nicaragua, the 1987 constitution created the North and South Atlantic Autonomous Regions (RAAN/RAAS). Since 2003, all indigenous peoples have the right to self-government within their titled communities and territories (IWGIA 2015).⁵ In Colombia, indigenous

agreements usually include such things as land ownership and management, money, wildlife harvesting rights, participation in land, resource, water, wildlife and environmental management, and measures to support economic development and protect Aboriginal culture. Agreements may also include provisions relating to Aboriginal self-government, or provide for future negotiations of self-government.

⁵ While the territory belongs to the indigenous peoples and cannot be bought or sold, land has been changing hands illegally over the last decade and large numbers of Nicaraguans from the country's central and Pacific coast regions have arrived, seeking a variety of opportunities. The newcomers are a diverse group: small-scale farmers, commercial farmers, timber traders, land dealers. Drug traffickers have also moved into the area, which sits on a key route for the movement of drugs between Colombia and the United States. The rapid increase in the non-indigenous population is viewed by the indigenous inhabitants as an invasion, and it has unleashed a deadly conflict over their territory.

peoples collectively own approximately one-third of the national territory. The indigenous *resguardos* or reserves are made up of one or more indigenous communities who manage the territory and govern themselves. However, even with this protection, these reserves are still threatened by the development of extractive activities and of plantations (IWGIA 2015). The indigenous peoples of Bolivia have consolidated approximately 20 percent of the national territory as collective property or Native Community Lands. In 2010, indigenous self-determination was for the first time officially ratified in the Autonomy and Decentralization Framework Law, which defines the procedures for indigenous communities to declare their autonomy and grants the right to establish their own governments and institutions (Andean Information Network 2012). The right of self-determination in Peru will be discussed in Chapter Four.

1.1.6. State responses to indigenous rights claims

Even though indigenous self-determination should not be seen as a threat to the State since it focuses on internal or cultural self-determination and does not usually imply appeals for secession or statehood, many States are still very wary of indigenous claims for more self-determination and have been reluctant in their responses to certain collective rights claims, in particular those involving the right to traditional territories and natural resources. They often consider these claims to increased autonomy and to their territories as a threat to the State's sovereignty and territorial integrity. Additionally, many indigenous territories are rich in natural resources such as minerals, oil, gas and forest resources and the State does not want to risk losing investments or earnings resulting from the extraction of these resources. If indigenous claims to their ancestral territories, which include the resources on these lands, would be granted, there is the risk that the indigenous people now managing the lands and resources would not allow any form of extractive activity. Many governments believe that this would be detrimental for national development, and therefore for their approval ratings among the mainstream population and for their re-election ambitions. This national development discourse still dominates in many countries and continues to obstruct indigenous claims to their territories. The dominating national development discourse in case study Peru will be further discussed in Chapter Three.

These state responses to indigenous rights claims have led and continue to lead to conflicts between the State and indigenous groups. The denial of human rights and the resulting marginalization and poverty are the root causes of all conflicts, but for conflicts involving indigenous people the root causes can be narrowed down to the denial of their collective rights specifically, such as the loss of control over and separation from their traditional lands, territories and natural resources and the denial of their right to self-determination, which includes preserving their own way of life, language, traditions and institutions (Tebtebba Foundation 2000).

Although some countries have carried out legal reforms strengthening collective rights, there is still a significant gap between international standards and national legislation on the one hand and the practical implementation and realization of collective rights on the other (UNPFII 2009b). States often do not respect their own legal provisions when the practical implications of self-determination do not fit into their vision and policy for national development. Around the world, this implementation gap causes serious tensions between indigenous peoples and the State (UNPFII 2009b; IWGIA 2012). In particular, violations of the indigenous right to self-determination concerning their lands, territories and natural resources seem to be the cause of the majority of conflicts between the State and indigenous people (Tebtebba Foundation 2000). The inadequate implementation of national legal frameworks has led to slow and complex land-titling and demarcation processes, the loss of traditional lands and fragmentation of territories, inconsistency between amounts of land titled to indigenous peoples and the land concessions awarded to large enterprises, the lack of access to productive lands and a restricted right to their natural resources (UNPFII 2008; UNPFII 2009b). Because of their intimate relationship with their lands and natural resources on which they rely for their physical and spiritual survival as a people, the denial of this right affects the economic, socio-cultural and physical wellbeing of indigenous peoples and it is therefore not a surprise that it continues to lead to conflicts (UNPFII 2008).

1.2. Conflict transformation

As mentioned above, this study examines how conflicts between an indigenous people, the Awajún, and a State, the Peruvian State, can be transformed to prevent escalation and violent outbreaks. Before considering conflict transformation specifically for indigenous contexts, the general concept of conflict transformation will be closer looked at.

Conflict transformation is “a process of engaging with and transforming the relationships, interests, discourses and, if necessary, the very constitution of society that supports the continuation of violent conflict” (Miall 2004). Conflict transformation perceives conflict as a catalyst for change and aims not to ‘resolve’ or eliminate conflict from society but instead to transform (potential) violence into constructive change processes (Miall 2004; Parlevliet 2010b). Conflict transformation theorists and practitioners believe that the root cause of conflict is not the incompatibility of interests or positions but instead the denial of basic human needs. Interests or positions can be negotiated but basic human needs will be pursued by any means necessary (Lederach 1995; Lederach 1997; Reimann 2004; Parlevliet 2010b). Whether a conflict turns violent depends largely on the actions of the State and whether effective conflict-handling mechanisms and institutions aimed at basic needs realization are present (Lederach 1995; Lederach 1997; Lederach 2003; Miall 2004; Parlevliet 2010b).

From its understanding of the nature and causes of conflict, conflict transformation aims to generate positive changes in the personal, structural, relational and cultural aspects of conflict (Lederach 1995; Lederach 1997; Lederach 2003; Reimann 2004). Conflict transformation is a gradual and long-term process that targets the root causes of conflict and the underlying structures and relationships through a series of changes (Lederach 1995; Lederach 1997; Lederach 2003; Reimann 2004). At the same time, however, a short-term strategy is needed to tackle the apparent symptoms of conflict and thus prevent more violence and harm. Conflict transformation practitioners therefore work with multiple timeframes (Lederach 2003).

Effective conflict transformation demands a dynamic and comprehensive approach; it not only adopts multiple timeframes but also applies a multi-track

approach (Rupesinghe 1995; Reimann 2004). Instead of focusing on Track I or on Track II activities⁶ as conflict management and conflict resolution do, conflict transformation combines activities of both Tracks and introduces a Track III (Rupesinghe 1995; Lederach 1997). Track III widens the scope of actors involved and includes activities targeting the empowerment and the building of capacity of a wide range of actors to engage successfully in change processes (Lederach 1997). Peace education and peace journalism are two specific examples of possible Track III activities (GIZ 2011). John Paul Lederach (1997) illustrates the variety of actors involved in conflict transformation as a pyramid: the top represents the decision-makers and leaders, the mid-level includes leaders of national civil society organizations and churches, top journalists and academics and the base of the pyramid covers grassroots leaders. Conflict transformation targets all these levels.

In this respect, it should be noted that, contrary to conflict resolution and management, conflict transformation is not primarily the result of third party intervention (Lederach 1997). Instead of relying mainly on mediation by outsiders, it focuses on supporting the parties directly and indirectly involved in the conflict to manage the process through for instance capacity building and the development of creative platforms where parties can engage with each other (Lederach 1997; Miall 2004; Reimann 2004; Darweish 2010; Parlevliet 2010b; GIZ 2011).

Lederach (1997; 2003) identifies four levels of response for conflict transformation processes: the issue, relationships, sub-system and system. While the issue level calls for short-term responses to direct violence and the system level for a long-term process of change, the relationships and sub-system levels contain steps that can be taken immediately and that contribute to long-term change. The relationships and sub-system levels are therefore often the focus of conflict transformation practitioners (Parlevliet 2010b). Enhancing relationships between conflict parties, in particular their deeper aspects, and finding ways to deal with apparent incompatibilities between them

⁶ Track I: Traditional diplomacy or mediation, high-level negotiation between political leaders.
Track II: Unofficial, informal interaction between members of adversary groups or nations that aim to develop strategies, to influence public opinion, organize human and material resources in ways that might help resolve their conflict.

are main priorities of conflict transformation. By working with both parties to improve their constructive dialogue skills and by developing or reinforcing networks amongst people and civil society organizations across divides and thus establishing facilitated channels of communication, conflict transformation aims to establish constructive dialogue leading to greater understanding and eventually to positive long-term change (Lederach 1997; Miall 2004; Reimann 2004; Diez and Pia 2010; Parlevliet 2010b; GIZ 2011). Facilitators can support this process by assisting the parties in reframing their positions and interests in terms of basic needs (Lederach 2003; GIZ 2011).

An additional key principle of conflict transformation is that any strategy needs to be localized or adapted to the local context. A conflict transformation strategy that was successful in a particular context cannot just be copied to a different context. Practitioners need to have a profound understanding about the local context, including local culture, stakeholders and available resources, in order to develop a conflict transformation strategy (Lederach 1995). In any context, however, an inclusive, participative and transparent process is essential to a successful outcome. Conflict transformation implies a process-oriented focus (Lutz *et al* 2003; Reimann 2004; Sonnenberg and Cavallaro 2012). Within the conflict transformation framework, the emphasis on a just process is not limited to the process of negotiating a resolution to a conflict but instead it applies to all phases and levels of conflict transformation, from the context analysis and planning to the evaluation process (Lederach 2003; Miall 2004; Reimann 2004).

1.3. Conflict transformation and rights claims

Until more recently, it was widely believed that human rights and conflict transformation efforts were incompatible. Conflict transformation practitioners criticized human rights workers for prolonging conflicts because of their pursuit of perfect justice while the latter reproached the former for settling for a swift and short-term solution and for giving politics priority over principle. The persistent peace versus justice debate, which was considered as an either/or-choice, illustrates this clash (Parlevliet 2010a).

Around the turn of the century, however, this debate started to shift and it was increasingly acknowledged that peace and justice are closely linked. The emphasis shifted from peace as the mere absence of violence to a positive peace with justice. Rights denial was recognized as one of the main causes of conflict, which needed to be tackled in order to reach a long-term peace (Parlevliet 2010b; Schmelzle and Dudouet 2010; Sonnenberg and Cavallaro 2012). This seems to fit in well with William Felstiner's theory (1980) on the emergence of conflicts as well. Felstiner confirms it is important to examine the antecedents of conflicts, which often include rights violations, in order to understand why these conflicts have emerged and in order to transform them. He discerns three stages in the emergence of conflicts: naming, blaming and claiming (Felstiner 1980). Naming refers to the transformation of an unperceived injurious experience into a perceived injurious experience. The person or group must become aware that there is an injustice. Blaming refers to the transformation of a perceived injurious experience into a grievance. This occurs when a person or group attributes this injustice to the fault of a specific person or entity, e.g. the State in the case of indigenous rights violations. Claiming occurs when the person or group voice their grievances to the person or entity they blame and ask for remedy. Lastly, a claim can transform into a conflict when it is rejected by the person or entity blamed for the injustice (Felstiner 1980). For indigenous people, this injurious experience is usually the violation of a collective right for which the State is blamed. When their rights claims remain unanswered, conflicts almost inevitably emerge.

Although the important role of human rights in conflict transformation and the common goal of the human rights and conflict transformation fields are now acknowledged, the approaches of human rights and conflict transformation actors are often still inherently different (Parlevliet 2010b). Human rights actors take sides with the victims of rights abuses and often focus on human rights monitoring and reporting, name-and-shame campaigns and similar activities which often do not go well together with conflict transformation activities, which aim to promote improved dialogue and relationships between parties (García-Durán 2010; Gomes-Mugumya 2010; Parlevliet 2010a).

Human rights and conflict transformation can however join forces in their pursuit for a just peace in a rights-based approach to conflict transformation. Michelle Parlevliet (2010b), who advocates for a rethinking of conflict transformation from a human rights perspective, claims that human rights approaches and conflict transformation should work in conjunction. They fill each other's gaps and underline aspects that are relatively underexplored in the theory and practice of the other field. Both are concerned with not merely the symptoms of conflict but rather its root and structural causes and they both target positive long-term social change. A rights-based approach pursues the empowerment of the most vulnerable and excluded persons and groups, a broad and inclusive participation and the establishment of structures and institutions that improve rights protection and fulfillment (GIZ 2011). Conflict transformation focuses on transforming conflicts into positive long-term change by applying non-violent methods and addressing the underlying conditions, attitudes and relationships (GIZ 2011).

Such a rights-based approach to conflict transformation views the failure to respect, protect or provide human rights as the root cause of conflict. If human rights are denied, basic human needs such as identity, welfare, freedom and security are frustrated and this can potentially lead to violent conflict if there are no mechanisms to claim rights or institutions to fulfill these basic needs (Parlevliet 2010b; GIZ 2011). A rights-based approach to conflict transformation combines elements of the human rights framework and of conflict transformation. The main aim of this approach is to achieve constructive social change, transform unjust systems, tackle inequality and challenge the status quo. Conflicts and basic human needs are reframed in terms of denied rights, which has the advantage that it can hold States accountable since they agreed upon the duty to respect, protect and fulfill human rights by signing human rights treaties (GIZ 2011).

Tackling the symptoms of conflicts such as direct violence is not the principal concern of a rights-based approach to conflict transformation. The latter emphasizes that addressing structural and cultural violence, through tackling human rights issues, is essential for ensuring long-term peace (Parlevliet 2010b; GIZ 2011). Both civil and political rights and economic, social and

cultural rights are addressed (Nderitu 2010; Parlevliet 2010b), although a rights-based approach to conflict transformation tends to focus on the latter group of human rights since these are more often neglected. In addition, this approach does not only aim to promote individual rights, but also the typically more controversial collective rights of disadvantaged groups (Diez and Pia 2010). Addressing collective rights is particularly important for conflict transformation because the majority of large-scale impactful conflicts involve collectivities, either two or more collectivities against each other, or a collectivity against the State, and are caused by the violation or non-realization of collective rights. These collectivities include indigenous people but also other linguistic, ethnic, cultural, racial and sexual minority groups. These conflicts are particularly intense because they are based on the (denial of the) core identity of these groups and their members. Identity is a basic need and its realization is therefore non-negotiable. As such, denial will almost always lead to conflict.

A rights-based approach to conflict transformation aspires to confront inequality and therefore sides with the most vulnerable and marginalized. This implies a role for advocacy, which at first sight seems to oppose the neutrality principle important to conflict transformation. The advocacy activities, however, are of a non-adversarial nature (Parlevliet 2010b; Sonnenberg and Cavallaro 2012). This entails challenging the status quo while maintaining a problem-solving orientation. Non-adversarial advocacy refrains from party advocacy but instead advocates in favor of certain values, a just process and outcomes that are appropriate within a human rights framework (Parlevliet 2010b).

Human rights should not be limited to a strictly legalistic understanding. Instead, a rights-based conflict transformation applies a holistic and multi-dimensional understanding of human rights (Clements 2004; Nderitu 2010; Parlevliet 2010b). Its focus on human rights includes striving for a conflict transformation process that is entirely guided by human rights principles such as participation, ownership, inclusion and transparency and for the development or transformation of structures and institutions that improve human rights realization (GIZ 2011). Besides refraining from adopting a narrow legal understanding of human rights, a rights-based approach to conflict transformation also requires the localization of human rights (Gready 2008;

Nderitu 2010; Schmelzle and Dudouet 2010; GIZ 2011). It acknowledges that, while human rights are non-negotiable concepts, their interpretation and application is necessarily context-specific. This entails taking local culture, history and traditional mechanisms into account but also simply relating human rights to people's daily lives and experiences through locally-designed and context-specific initiatives, which results in a local and shared ownership of the conflict transformation process and thus increases its chances to success (Nderitu 2010).

Through its comprehensive and localized application of human rights, rights-based conflict transformation facilitates their operationalization in conflict transformation processes and strategies. Operationalized human rights are integrated at all levels and stages of conflict transformation processes and they determine the objectives and criteria of a successful rights-based process (GIZ 2011). By reframing conflict in terms of human rights issues, States necessarily become one of the main actors in any conflict transformation process since they have the obligation to respect, protect and fulfill human rights (Clements 2004; Parlevliet 2010b). Greater attention for the role of the State is one of the main aspects of a rights-based approach to conflict transformation since state failure to fulfill this duty is often among the structural causes of a conflict (Miall 2004; Parlevliet 2010b). It is therefore essential to assist state actors to develop or improve institutions that support the realization of the human rights of their citizens. It will also promote the development of mechanisms through which right-holders can make human rights claims, raise discontent and seek redress as an alternative to violence (Pia and Diez 2007). These institutions and mechanisms should be developed in such a way as to encourage the empowerment of disadvantaged individuals and groups. Simultaneously, right-holders are targeted through awareness-raising and capacity-building strategies. This includes among others human rights and peace education activities that empower disadvantaged groups to claim their human rights in a non-violent and constructive way (Darweish 2010; Nderitu 2010; Parlevliet 2010b; GIZ 2011).

Rights-based conflict transformation not only focuses its attention on both the right-holders and the duty-bearers of human rights, but also on intensifying and

improving the relationship between the two. Constructive problem-solving and non-violent interaction between the two sides need to be institutionalized and organized based on the human rights principles of participation, inclusion, transparency, accountability and ownership (Pia and Diez 2007; Nderitu 2010; GIZ 2011). In order to improve relations, it is also of major importance to address any negative attitudes and stereotypes both sides may hold of one another. As Johan Galtung pointed out, attitudes and stereotypes are often a source of discrimination and justification of oppression (Darweish 2010). A rights-based approach to conflict transformation should aim to positively influence the institutional culture, values, communication style and perceptions of state actors without lecturing them in the traditional style of human rights actors, which all too often triggers a defensive reaction, but instead by focusing on the process and letting them experience a different way of handling things (Parlevliet 2010b). The process orientation also offers the opportunity to right-holders to build their trust in state actors, which can potentially alter the conflict discourse (Lutz *et al* 2003). Conflict transformation practitioners play a facilitative role between state and non-state actors (Clements 2004).

This study will take a closer look at the rights claims of a particular indigenous people, the Awajún in Peru, to characterize how conflicts with the State can be transformed. From the perspective of the indigenous research participants, it will be considered what the main features of an effective conflict transformation approach for these conflicts would be. Chapter Two will first describe the research methodology employed in this study, with a particular focus on the researcher's positionality and ethical concerns, which are of paramount importance in a study on indigenous issues by an outsider researcher.

Chapter Three has a closer look at Peru's historical and political context focusing on the fate of its indigenous peoples, in order to get a deeper understanding of the background in which the rights claims expressed by the research participants originated. In addition to a historical overview of the fate and position of indigenous people in Peruvian history, two important issues that shape their current reality are discussed, i.e. the national development discourse and socio-environmental conflicts. Chapter Four examines Peru's current policies on indigenous rights by considering to which extent the main

collective rights identified in UNDRIP have been incorporated into national legislation.

The indigenous Awajún people and their rights claims are introduced in Chapter Five. It will be identified from the research participants' contributions what they consider as the major issues affecting their daily lives. Chapter Six analyses the relationship between the Awajún and the Peruvian State. From the interviews, it will be considered how the respondents perceive this relationship and what they identify as the main causes of conflict with the State. Chapter Seven examines respondents' views on how to improve the relationship with the State and on how to prevent future conflict. The concluding chapter attempts to develop a proposal for conflict transformation for conflicts between the Peruvian State and the Awajún as well as identifies and characterizes the main aspects of this approach. It is also considered whether this approach could be applied to other indigenous peoples in Peru.

Chapter Two: Research Methodology

The purpose of this research is to study the potential of a rights-based approach to conflict transformation for conflicts between the Peruvian State and the Awajún and to identify and characterize the main aspects of such an approach by analysing the Awajún's rights claims. The research was specifically designed to focus on the indigenous perspective. The study adopts a qualitative study design and aims to apply a decolonized research approach.

2.1. Positionality

Positionality reflects one's place as a researcher in the research study and is determined by culturally fixed aspects such as gender, race or nationality and by contextual aspects such as one's personal and professional experiences (Chiseri-Strater 1996). Throughout this study, it has been of great importance to self-reflect upon my own views, values and beliefs and to consider how my positionality impacted the research. These reflections even guided several changes to the research design. Acknowledging and reflecting upon one's positionality is particularly required for an outsider researcher conducting research in indigenous contexts.

I am a middle-class, white female born and raised in the Flemish Region of Belgium. I went to primary school in a small town with, at that time, no minority students. Although the mid-sized city where I went to secondary school is nowadays more diverse, the Catholic school that I attended had at the most a few minority students while I was there. Even when I was attending university in the larger city of Ghent, there were only very few minority students in my classes. It was not until the age of 19 as an exchange student in Valencia, Spain that my circle of friends diversified with people of cultural and ethnic backgrounds different to mine. Even though I have lived in different places around the world since then, as a white woman, I have never personally experienced racial or ethnic discrimination and when living in countries where I looked different, such as Peru, I rather experienced positive discrimination resulting from my 'white privilege'.

However, I have always had a strong interest in issues related to ethnic and cultural minorities and their rights, writing one Masters thesis on African American culture and another on the rights-based approach to development. My work experience has centred on minority issues as well, i.e. advocacy for asylum-seekers, persons with a disability, vulnerable people from minority backgrounds and sign language users. Both the lack of personal experience with discrimination and my strong interest and sympathy for marginalized minorities are of paramount importance when identifying my positionality in relation to this research, which focuses on the rights of a marginalized minority.

I first became interested in indigenous rights when traveling through Australia's Outback. I was astounded that in one of the richest countries in the world, its original people lived in conditions comparable to those of Third World countries. This encouraged me to first start reading more on indigenous peoples around the world and learning more about their collective rights and ultimately choose indigenous rights as the subject of my PhD research.

Peru was an obvious choice as case study, since I am married to a Peruvian and was living in Peru during my research, which can both be considered as additional factors of my positionality. Actually living in the country instead of just spending a few months there for research allowed me to gain a deeper understanding of Peruvian society, politics and its people, which was very helpful and undoubtedly shaped my research as well. I speak Spanish fluently, which ensured that I was not limited to primary and secondary resources in English. However, I am also very well aware of my researcher status as outsider. From the early stages when I was still trying to formulate the research subject, I have been very concerned that as an outsider researcher I would continue the colonizing research tradition, where researchers arrive with their objectives and research design and conduct their research without much true input from the indigenous participants. It was attempted to design this research specifically to avoid this and to maximize the perspective of the indigenous respondents and minimize my outsider's perspective.

2.2. Research Design

In order to ensure a decolonized research design and minimize the influence of an outsider researcher, it was opted to apply a qualitative, exploratory approach instead of a confirmatory approach. A decolonized approach intends to give voice and prominence to communities marginalized in contemporary research practices (Smith 1999). This will be further discussed below. Exploratory research aims to discover a theory from the data itself and connect ideas to identify and gain a deeper understanding of the key issues while confirmatory research starts with a theory and tests specific hypotheses (Creswell 2014).

In order to evaluate the potential of a rights-based approach to conflict transformation for conflicts between the Peruvian State and the Awajún and to identify and characterize the main aspects of such an approach, the following research questions are studied:

- What is the current state of indigenous rights realization on paper and in practice?
- What are the main rights claims of the Awajún?
- How do the Awajún characterize their relationship with the State?
- What are the main causes of current conflict between the State and the Awajún?
- How can this relationship be improved and future confrontations prevented according to the Awajún?
- Is a rights-based approach to conflict transformation suitable for conflicts between the State and the Awajún?
- What are the main aspects of a rights-based approach to conflict transformation for conflicts between the State and the Awajún?

The Awajún, one of the largest Amazonian indigenous peoples of Peru, was selected as case study because they have preserved a strong cultural identity and have been closely involved in the most high-profile recent violent conflict between the Peruvian State and an indigenous people. Therefore, the Awajún seemed to make a great fit for exploring a rights-based conflict transformation approach for conflicts involving an indigenous people.

As for any qualitative study, the context is of major importance. Therefore, preparatory research on the political, socio-economic and historical background of indigenous people in Peru was first carried out, followed by an analysis of the current policies on indigenous rights examining the incorporation into national legislation of the major collective rights identified by UNDRIP. After establishing the general, official narrative on the current state of indigenous rights, the case study analyses the rights claims of the Awajún, the actual implementation and impact of current policies related to indigenous rights on the daily lives of the Awajún, their perspective on their relationship and on current conflicts with the State as well as on how future confrontations with the State can be prevented. The development and execution of the case study were carried out in cooperation with a local Awajún researcher. This cooperation will be further discussed below.

From the analysis of the case study, including the analysis of the qualitative interviews, existing policies and political, socio-economic and historical background, it was attempted to characterize a rights-based approach to conflict transformation suitable for conflicts between the State and the Awajún. It was also briefly considered whether this approach could be applied to other indigenous peoples in Peru as well.

2.3 Research Methods

2.3.1 Sampling

Research participants⁷ were selected from various Awajún communities and annexes in two different regions of the Peruvian Amazon:

- The district of Imaza in the province of Bagua, region of Amazonas (area 1)
- The district of Awajún in the province of Rioja, region of San Martín (area 2)

⁷ See Appendix for more background information on research participants.

Purposeful sampling was applied for the identification and selection of participants. Purposeful sampling involves identifying and selecting individuals or groups of individuals that are especially knowledgeable about or experienced with a phenomenon of interest (Creswell 2014). For this study, knowledge and experience refer to participants' personal experience as Awajún with the State and with the realization or violation of indigenous rights. Maximum variation sampling, one type of purposeful sampling, was applied to select participants who represent a wide variety in personal expertise and experiences in order to obtain a comprehensive and representative overview of diverse experiences and opinions.

35 participants were selected to represent a variety of gender, age, educational level, and professional and leadership experience. About one third of participants are female. Participants are between 17 and 69 years old.⁸ Their education level varies from primary school to university level. Participants are or were, among others, farmers, teachers, musicians, students and housewives. Some have or had leadership positions within their communities.

While there are more male than female participants, it was attempted to achieve diversity among female participants as well. This was harder to accomplish for female participants because of persisting gender inequality and cultural roles. Most local women have only had a primary school level education, many older women are still illiterate, and the majority is housewife. Despite this difficulty, we succeeded in including female participants ranging in age from 18 to 51 years old and with occupations as housewives, teachers and secondary and university students. Some of the female participants are or were leaders in Awajún women's organizations, mainly the 'mothers committees'. While the ideal sample would have included 50% women, this would have affected the variety in educational level, occupation and leadership experience.

My Awajún co-researcher Fermin Tiwi Paati personally contacted potential participants. There is almost no mobile phone service nor Internet in the areas where the participants live and therefore in-person contact was the most

⁸ A person of 69 years old is considered 'an elder' in Awajún society. Life expectancy is considerably lower in Peru's rural areas and among indigenous people than in the cities.

effective, and in many cases only, way to contact potential participants. Fermin is originally from area 1 himself and therefore has contacts in most communities and annexes, who helped him identify and contact potential participants. His brother-in-law, originally from area 2, assisted him in contacting potential participants in communities from that area. During the initial contact, Fermin explained the purpose and objectives of the study, the methodology and what was expected from participants. He also inquired about their preferred language for the interview: Spanish or Awajún.

During the initial contact, Fermin also presented himself to those who did not know him before, identifying himself as Awajún and specifying his community and family ties. This also included an informal conversation as is common in Awajún culture and indispensable for making the participants feel at ease with him as interviewer. In addition, he introduced me and clarified our cooperation and my role in the research. The trust and connection they felt with Fermin as interviewer as well as their enthusiasm about the focus on the Awajún perspective ensured that the great majority agreed to be interviewed. In many cases, because of the lack of accessibility as well as distances between communities, the interviews were conducted on the same day as the initial contact.

To obtain consent, each participant was asked again before the interview if they agreed to participate. They were informed about the purpose of the study, procedures, benefits and risks of participation, the possibility to maintain anonymity or confidentiality, their right to withdraw at any time, and the audiotaping and transcription. They were also provided with the contact details for both researchers. Participants were verbally asked for their consent instead of signing a written consent form. Several participants do not read well enough and in addition, many Awajún have a strong distrust in signing written agreements because of previous deceptive behaviour by government or private sector representatives in which they were tricked in signing agreements that they did not fully understand.

It was decided not to interview state actors and to focus on the Awajún perspective since including and talking to state actors about these same issues

would have scared away the Awajún participants who would have lost their trust in us and the research. They would have thought that we pass on their responses to state actors. Because of their strong distrust of outsiders and in particular government representatives, we would not have been able to get the same honest and comprehensive responses and as such data that we have obtained now.

2.3.2. Data collection

One-on-one, in-depth interviews were identified as the data collection method that allows a maximum input of the participants and provides the required rich and detailed information. Through one-on-one, in-depth interviews, the researcher learns about a research topic from an individual's own perspective and gains insight into personal understandings, experiences and opinions (Kalof *et al* 2008). They also allow the researcher to ask for clarification or rephrasing to make sure that meanings are shared between researcher and participant and as such that the participant's perspective is well interpreted (Wilkinson 2000).

One-on-one interviews were also selected as the most appropriate method for this particular case study. Any research method or instrument used in indigenous settings should be decolonizing, which means that it should be focused on the indigenous perspective, insider knowledge, reciprocity and a non-exploitative design that benefits the community (Coram 2011). One-on-one interviews lie on a spectrum from structured to unstructured and therefore offer a great degree of flexibility. Moderately unstructured interviews were chosen as the most suitable research instrument for the purposes of this research. The more unstructured interviews allow a greater input from the research participant and even let the interviewee guide the direction and focus of the interview (Bechhofer and Paterson 2000). This choice of research instrument makes it more difficult to compare between the answers of interviewees or between cases, but at the same time, it allows a better access to the meaning (Bechhofer and Paterson 2000), since the interviewer can ask interviewees to go into depth on a specific aspect of their responses and to clarify and explain

their statements and ideas in more detail, which is of utter importance to collect the required data.

The interview guide only included a few general, broad questions on the major issues participants are facing as Awajún, their relationship with the Peruvian State, the realization of their rights and what could improve their relationship with the State. From the responses to the general questions, the interviewer followed up on elements that he wanted to see explained in more detail. The topics that were not spontaneously raised by participants were introduced by the interviewer through broad questions that did not restrict too much the potential range of response of the participant. The central rationale of the interviewing in this research was to “follow the interviewee’s talk, to follow up on and to work with them and not strictly delimit the talk to your predetermined agenda” (Rapley 2002: 18). This rationale is fundamental in decolonizing the interview process, which is, as mentioned before, an essential requirement when conducting research in an indigenous context. Some of the interviews were conducted in the Awajún language, if this was the participant’s preferred language. All interviews were audiotaped and later transcribed in Spanish. Fermin, who is also an official interpreter Spanish-, first translated the interviews in Awajún to Spanish.

2.3.3. Data analysis

The data from the interviews was analysed based on the ‘Framework’ analytic approach, developed by the National Centre for Social Research. The five key stages of qualitative data analysis in the ‘Framework’ approach are: familiarization, identifying a thematic framework, indexing, charting, and mapping and interpretation (Ritchie and Spencer 1994). In order to obtain a good overview of the data from the interviews, open coding was applied to select the data and label key quotes that were significant for the purposes of this research. Subsequently, the revisions of this material led to the development of an initial thematic framework including codes for key issues, categories and subcategories. Six major categories or themes were identified: discrimination, assimilation and changing culture, relationship with the State, causes of conflict, indigenous rights violations and potential conflict

transformation actions. For each category, various subcategories⁹ were identified as well.

Following the process of initial coding, a second round of analysis involved systematically indexing the data according to the thematic framework. The thematic framework was adapted where deemed appropriate. This process was ongoing throughout the data analysis process as each subsequent revision of material confirmed, strengthened, or refined existing categories and codes. Subsequently, the indexed data was reorganized and charted by subcategory and respondent. In order to remain as close as possible to the data provided by the respondents, abstraction and synthesis were kept to a minimum and the key quotes were added to the charts. The charted data was then reviewed for patterns and differences in perceptions and experiences. The results of the data analysis were studied and interpreted in three different parts: rights claims, the Awajún's relationship with the State and causes of conflict, and conflict transformation strategies.

Contrary to the data collection, I carried out the entire data analysis process myself since I had more extensive data analysis experience than Fermin. However, in order to make sure the ideas and opinions of the participants were represented correctly and the right conclusions were drawn and thus avoid the 'colonial gaze', I presented the results to Fermin for his feedback at two different stages of the process, i.e. the identification of the thematic framework and the interpretation of the data. We agreed that if necessary, he

⁹ Discrimination: Equality/Second class citizens; discrimination by the State; racism/stereotypes; obstacles.

Changing culture/assimilation: New reality/adaptation; food; loss of traditional values; distinctness; internal conflicts.

Relationship with the State: Absence of State; lack of confidence in the State; lack of respect from State; lack of understanding by the State; state support; laws; criminalization of protest/injustice; no proper complaint mechanisms; lack of transparency; police; lack of respect for community autonomy; lack of continuity; State gives priority to companies; divide and conquer strategies.

Causes of conflict: Increased awareness; Baguazo; general causes of conflict; land; resource extraction; lack of respect; lack of support.

Indigenous rights violations: Natural resources; education; land rights; healthcare; economic opportunities; prior consultation; participation and representation in the State; opportunities for Awajún professionals; right to development; environment; cultural rights; Awajún media; gender. Conflict transformation actions: Self-determination; true dialogue and contact with the State; territorial and resource security; equality; unity and organization; strengthen culture; state support according to Awajún priorities; participation and representation; Awajún professionals; own development; Awajún Nation.

would check back with the participants as well, but this was only needed in one instance. He did however share the main conclusions to a few of the participants who are or were community leaders and have a good overview of the main issues and asked for feedback in case they had doubts about particular aspects of my analysis or interpretation. The feedback of both Fermin and his contacts were positive, mainly because I had attempted to stay as close as possible to the data provided by the participants.

2.4. Ethical considerations

I have considered the ethical concerns of my status as outsider researching indigenous issues as pivotal from the early stages of the development of this study. Indigenous communities have seen a great amount of external researchers come and go who did not take their customs, needs or perspectives into account nor did they ever benefit from the research results. As Linda Tuhiwai Smith, a leading theorist on the decolonization of Maori in New Zealand, wrote: "From the vantage point of the colonized, ... the term 'research' is inextricably linked to European imperialism and colonialism. The word itself, 'research', is probably one of the dirtiest words in the indigenous world's vocabulary ... The ways in which scientific research is implicated in the worst excesses of colonialism remains a powerful remembered history for many of the world's colonized peoples. ... This collective memory of imperialism has been perpetuated through the ways in which knowledge about indigenous peoples was collected, classified and then represented in various ways back to the West, and then, through the eyes of the West, back to those who have been colonized" (Smith 1999: 1).

As was mentioned in the discussion on positionality, I am well aware of my status as an outsider researcher. I am even as 'outsider' as it gets: I am not Awajún, I am not indigenous, I am not a minority in the country where I grew up in and I am not even Peruvian or Latin American. There are claims that research on disempowered communities should only be conducted by people from within that community. "Nothing about us, without us" as the motto of the disabled community goes. The main arguments against outsider researchers are that the latter cannot understand or accurately represent the experience of

such a community and that research by outsiders disempowers these communities (Bridges 2001).

In Peru, however, there has not yet been much academic research on indigenous issues by indigenous researchers. First, because there are simply not that many indigenous academics, since those that do make it to university opt for careers as lawyers or engineers. Secondly, because the main focus of academic positions in Peru is on teaching and not on research. Nevertheless, I recognized that I had to guarantee that my research on indigenous rights did not potentially harm those same rights and therefore considered various actions I could take to properly address this ethical concern. As a result, I decided to focus the research on the indigenous perspective, apply a decolonized research method and collaborate with an indigenous researcher.

Some might claim that focusing on the indigenous perspective in a study on conflict transformation signifies taking sides, but it should be noted that the indigenous perspective has been largely underreported and that there is an overwhelming power disparity between the Peruvian State and its indigenous people. Nevertheless, where available, statements by respondents were supported by official statistical information, references to specific cases or other information sources. As mentioned before, any research method or instrument used in indigenous settings should be decolonizing. Therefore, this study explores the indigenous perspective through moderately unstructured, one-on-one interviews that allow a greater input by respondents and gain insight into an individual's own perspective, personal understandings, experiences and opinions. However, keeping Linda Tuhiwai Smith's quote in mind, the question remained if I as an outsider would be able to collect the data needed to obtain a correct overview of the indigenous perspective. Undoubtedly, various respondents would never feel fully at ease with me as interviewer to disclose their true opinions. In addition, while most respondents speak and understand Spanish perfectly, some older respondents are more comfortable speaking Awajún. In a decolonized approach, this accessibility should be guaranteed.

Taking these reflections into account, I considered it wise to search for an Awajún collaborator, preferably an academic researcher with knowledge of

indigenous rights. While inquiring among acquaintances with contacts in related fields of research, I was referred to Fermin Tiwi Paati, an Awajún lawyer and researcher. Fermin grew up in an Awajún community in the district of Imaza, Bagua province in the Amazonas region. Many of his family members still live there and Fermin still spends a few months per year there. He has an undergraduate degree in law and is now looking to finish his thesis to obtain his Masters degree at the Pontificia Universidad Catolica del Peru. The only reason why he has not finished this yet is his lack of resources to pay the amount required to defend his thesis. He has conducted research for the Amazonian Centre of Anthropology and Practical Application (CAAAP) in various Awajún and other indigenous areas and has several publications on Awajún culture as well as on the *Baguazo*, the violent confrontation in 2009 between indigenous protesters, mostly Awajún, and the police. He is also trained as an official interpreter Spanish- Awajún.

The collaboration was based on the principle of co-production of knowledge, where people intentionally try to collaborate on equal terms to develop a more collective wisdom. While he has the necessary local and cultural expertise and extensive knowledge on the Peruvian context of indigenous rights, I am more experienced in data analysis and knowledgeable on the theoretical and international framework of indigenous rights and on the subject of conflict transformation.. We worked together on the preparation of the sampling and interviews but he contacted the potential research participants and conducted the interviews. As a fellow Awajún, he immediately established a connection with participants and they felt comfortable sharing their views and opinions. For certain participants, he conducted the interview in Awajún and later translated it to Spanish for me. After a first series of interviews, we evaluated the data and discussed potential changes that he then applied in the next series of interviews. He also advised me during the data analysis process to ensure that the interpretation was carried out correctly and as such that the indigenous perspective was accurately represented. For the purpose of full disclosure, even though we considered ourselves equal collaborators, I did pay Fermin for his time and for the travel costs. He was at the moment in a difficult financial position and it would have been unfair to ask him to spend this much time on an unpaid project.

Research participants were also offered the opportunity to stay informed about the research and to receive updates on the results. Most of them expressed the wish to see the results of this research published and disseminated both in Spanish and English and in Peru and abroad. They hope these results can contribute to the advocacy work of their representatives on collective rights claims as well as assist the State to develop an effective conflict transformation strategy and as such prevent future violent confrontations. Fermin and I will work on a few publications to ensure we fulfil their request.

2.5. Limitations of the study

One of the main limitations of the research design is the small sample size, which affects the potential for generalizing the findings. Awajún communities in only two areas of the Amazon region were selected for purposeful sampling, which impacts the generalizability of the findings for the Awajún people as a whole. This study aims to develop a proposal based on the case of the Awajún but which is also potentially applicable to other indigenous peoples in the Amazon region of Peru. However, even though there are many similarities, each Amazonian people in Peru has its own specific culture and context and additional research should be carried out to corroborate the findings of this study for other indigenous peoples in Peru.

It can also be seen as a limitation of this study that only Awajún research participants were included and no state actors were interviewed. It was opted to focus solely on the Awajún perspective for this study since participants would be hesitant to cooperate if state actors were to be involved. Their lack of trust in the State is so high that they would be suspicious that the State perspective would become dominant as usual, that we would pass on personal information or that we would not correctly represent their opinions. However, it can be claimed that including the State's perspective would result in a more complete picture of the issues discussed and investigated.

Chapter Three: Indigenous in Peru. A history of marginalization of indigeneity, a dominating national development discourse and socio-environmental conflicts

While indigenous rights claims around the world have many aspects in common, the specific historical, political and socio-economic context of the State and the daily reality of a particular indigenous people ultimately determine the specific content of their rights claims and which are prioritized. This chapter will have a closer look at Peru's historical, political and socio-economic background focusing on the fate of its indigenous peoples, in order to get a deeper understanding of the context in which the rights claims expressed by the research participants in Chapters Five, Six and Seven originated. In addition to a historical overview of the fate and position of indigenous people in Peruvian history, two important issues that shape their current reality are discussed, i.e. the national development discourse and socio-environmental conflicts. This context analysis is not only important when considering indigenous rights claims but also for the development of a conflict transformation approach, since the latter is necessarily adapted to the local context.

3.1. General facts about Peru

It can easily be argued that Peru embodies the very concept of diversity. Geographically, it consists of vast areas of jungle (*selva*), mountains (*sierra*) and coast (*costa*). Each area has its own distinctive culture and traditions. Peru's climate varies from tropical in the east to very dry desert conditions in the west and perpetual snow, for now at least, on the Andean peaks. It is vulnerable to a wide variety of natural hazards: earthquakes, tsunamis, flooding, landslides, volcanic activity and desertification. Ethnically, Peruvians are of indigenous, European, African, or Asian (mostly Japanese or Chinese) descent and most are a mix of these, i.e. *mestizos*. Spanish (84.1 percent), Quechua (13 percent) and Aymara (1.7 percent) are the official languages of Peru but there are also a large number of native languages spoken in the Amazon region including Ashaninka, Awajún and Kukuma (CIA 2015).

Peru has a population of over 30 million people, of which 78.6 percent were living in urban areas in July 2015. Urbanization continues at a rate of 1.69 percent. Almost ten million people or one third of the Peruvian population live in the capital Lima, indicating its highly centralized character (CIA 2015). It is a mainly Christian country, i.e. 81.3 percent is Catholic and 12.5 percent Evangelical (CIA 2015). Many Andeans and Amazonians, however, have adopted a syncretic religion, blending many of their indigenous beliefs with the mainstream Catholic religion.

During the 2007 Census of Indigenous Communities of the Amazon Region, a population of 332,975 indigenous Amazonians was counted. Other sources, however, claim this number is closer to half a million. They belong to 60 ethnic groups and 16 linguistic families (IWGIA 2015). The demographics of the distinct ethnic groups vary strongly; some reach more than 80,000 members, such as the Ashaninka (114,183) and the Awajún (83,732) while others are very small, such as the Chamicuros with only about 63 persons (Ministerio de Cultura). The situation in the Andes is even more complicated because of the ongoing debate on who can be considered indigenous. There are therefore no specific data. The last national census in 2007 only had the language learned in childhood as a potential indicator of an indigenous identity. The Census recorded 3,360,331 Quechua speakers and 442,248 Aymara speakers (UN Special Rapporteur 2014). This number is likely higher in reality since many would not identify as Quechua speakers because of the stigmatization associated with speaking an indigenous language.

Unfortunately, indigenous people in Peru, both Andean and Amazonian, are still confronted with racism and stigmatization on a regular basis. Their cultures are perceived as inferior to western culture, represented in Peru by the urban economic and social elite, mainly of European descent, as well as by a growing middle-class of mestizos. Indigenous people on the other hand, have been considered since colonial times as primitives who needed to be civilized. Therefore, the general conception has been and continues to be that an indigenous person has to adhere to western culture if he or she wants to climb the social ladder. The indigenous Peasants of the Andes are generally described as ignorant and uneducated while Amazonian Natives are labelled as

exotic but also belligerent savages. More recently, indigenous peoples have often been depicted as 'the other' that stands in the way of economic growth and progress of the Peruvian State, in particular because they try to hinder the exploitation of resources within their territories. The use of violence against these people seems to be justified by depicting them as a 'threat' to society, violent savages that are easily manipulated and therefore need to be controlled or eliminated.

Furthermore, systemic discrimination is also omnipresent in many facets of the daily lives of indigenous Peruvians. Even though there is a lack of disaggregated data, the data that are available reveals the structural discrimination perpetuating inequality and the marginalization of indigenous people. A staggering 79 percent of the indigenous population is poor. The Peruvian Institute for Statistics indicated that the infant mortality rate goes from 99 to 153 per 1,000 live births in indigenous communities. In Puno, one of the provinces with a high indigenous population, the maternal mortality rate reaches 36 per 100,000 (UNPFII 2015). The 2007 Census of Indigenous Communities in the Amazon recorded 46.5 percent of indigenous Amazonians without health insurance. Only 5.5 percent are connected to the public water services while 73.3 percent use water from rivers and 15 percent from water wells. 36.6 percent of indigenous households do not have any type of sanitary facilities while 51.1 percent use cesspools or latrines. At the time of the census, 86.2 percent still did not have electricity (INEI 2009).

This structural discrimination is also clear from the numbers for education of the most recent censuses. 46 percent of children and teenagers between 3 and 18 years old whose first language was an indigenous language were not enrolled in an educational institution (UNPFII 2015). 19.4 percent of indigenous persons in the Amazon were recorded as illiterate, which increased to 28.1 percent for women. Only 47.3 percent of those older than 15 had received primary education and only 28.7 percent had received secondary education (INEI 2009).

The lack of proper health, education and other services in indigenous communities have convinced many families to immigrate to urban areas, where they face racism and are forced to assimilate and renounce many of their

traditions. This large-scale urban flight constitutes a major threat to the existence of indigenous communities and nations since it causes their disintegration. Many indigenous professionals who have studied in Lima or other cities do not return to their communities because of the lack of opportunities there, which in turn results in a brain drain and perpetuation of marginalization.

3. 2. Marginalization and writing out of indigeneity

Peru is a country with a long history of conquest. While it is mostly known as the land of the Incas, the latter were only the last civilization that Peru has known before colonization by the Spanish. Many cultures preceded the Incas, some by millennia. The Caral - Supe civilization, for instance, is a pre-ceramic civilization dating back nearly 5000 years. The archaeological site of the Sacred City of Caral - Supe is now considered as the oldest centre of civilization of the Americas (UNESCO 2015). A few thousand years later, the Nazca civilization etched the famous Nazca lines, a series of large ancient geoglyphs, into the Nazca Desert sands of southern Peru. These are just two of the many pre-Incan cultures of Peru.

It was not until the 12th century that the first Incas settled in the Cusco area and not until the mid-15th century that a major victory of the Incas against the Chanca people kicked off a series of conquests that would culminate in an empire stretching across the Andes (5,500 km north to south) (Mason 1988). All speakers of Quechua, the language of the Incas, were given privileged status and dominated the important roles within the Inca Empire. Forty thousand Incas governed a territory with an estimated ten million people speaking over thirty different languages (Remy 2014). Nowadays not only the Inca language is a remnant of the mighty Inca Empire, but also its many archaeological remains, including Machu Picchu, are a visual reminder of this glorious past.

While the Incan Empire conquered the other cultures and imposed on them the overarching state structure known as *Tawantinsuyu* or 'the four united jurisdictions', it did allow the conquered peoples to maintain their distinctness and, to a certain degree, their autonomy within the Empire (Remy 2014). The

first step in a long history of indigenous assimilation and the marginalization of indigeneity came after the Spanish Conquest. The colony did not recognize or respect the distinct identities and cultures and amassed all indigenous peoples under the generic term of 'Indians' (Remy 2014). From the onset, there was a strict division between the Spanish and the Indians, and later on with the emergence of the mixed-race mestizos, it can be claimed that there were three different classes based on ethnicity within colonial society, with indigenous people in the lowest category.

In addition, the colonial administration grouped the indigenous Andeans in *ayllus* or concentrated towns regardless of their specific indigenous identity. The new, imposed pattern of organization for indigenous peoples in the Andes was entirely based on these *ayllus* and the former groups consisting of a set of families belonging to a specific indigenous identity were now being identified according to their particular *ayllu*. In other words, their identities were reduced to the *ayllu* they were assigned. The members of an *ayllu* formed a community that collectively possessed a continuous space delimited by boundaries, with enough land to sustain each family and to fulfil their obligations towards the Spanish rulers (Remy 2014). The current organizational units of indigenous Andeans, the Peasant Communities, are still largely based on these *ayllus*. The main motivation of the colonial administration behind this reduction and concentration was to control the indigenous population and prevent uprisings as well as to facilitate administration and their conversion to Christianity (Chirif and García Hierro 2007).

However, the colonial administration did respect and protect the ownership of these communities over their lands, which enabled these communities to preserve many traditional features of Andean culture and to maintain a certain degree of autonomy, even within the narrow margins that the colonial power had left them (Chirif and García Hierro 2007). This was not due to the colonial administration's belief in indigenous autonomy but rather because it was in its own interest, i.e. the *ayllus* were also the collective tax units and this facilitated them to pay the high tax rate (Remy 2014).

Even though indigenous peoples of the Amazon region managed to maintain to a much larger extent their autonomy, organizational structures and cultural traditions due to their longer isolation from mainstream society, a similar assimilation trend occurred in the Amazonian region (Remy 2014). It was, however, mainly limited to the areas bordering the Andes through the establishment of a few Spanish settlements and Catholic missions. Jesuit and Dominican missionaries founded new towns causing the concentration and reduction of indigenous groups, who previously lived dispersed in the forest, similar to what occurred in the Andes with the *ayllus*. This had important implications for the indigenous peoples that were living in those areas, including the alteration of traditional life patterns, the disbanding of their traditional socio-political organization and imposed new forms of authority (Remy 2014).

From this early stage on, it is clear that the powers-that-be, both colonial and later republican, considered the Amazonian peoples as savages who needed to be saved and civilized through assimilation to the superior culture of the ruling class and as such the abandonment of their primitive traditions and customs. Therefore, they supported the work of the Catholic missionaries, who were considered as the bearers of civilization, as well as encouraged and actively promoted colonization of the Amazonian region (Chirif and García Hierro 2007). The missions brought more trade, both between the different missions as well as with other regions, which increased the influx of outsiders in the Amazonian border region. Because of the lack of productive lands in some parts of the Andes, many Andean people sought their fortune in the Central Jungle area and founded their own settlements there (Chirif and García Hierro 2007).

Assimilation efforts and the gradual erosion and marginalization of indigeneity continued after independence from Spain and the declaration of the Republic of Peru in 1821. The new predominant discourse of equality and citizenship for indigenous persons in the young Republic resulted in the abolishment of not only the separate tributary system they were subjected to but also of their special status and the protection of their lands. Instead of promoting equality, the loss of their special status and communal land ownership reduced indigenous persons from members of an ethnic and cultural group to inferior citizens belonging to the lowest class. In the Andes, indigenous farmers who

were previously working on community lands were now subjected to conditions of servitude on large haciendas while they were still largely excluded from political participation as illiterate Quechua-speakers¹⁰ (Remy 2014).

Fundamental change came in 1969 when the military government of Juan Velasco tackled the land issue in the Agrarian Reform. About eleven million hectares were expropriated from the haciendas of large landowners and divided among cooperatives and indigenous communities. What at first sight appears to be a vast improvement for indigenous communities in the Andes was however a mere continuation of the trend of assimilation and the writing out of indigeneity. The lands were not managed collectively as a community but instead distributed among community members as plots, following the western concept of individual property. In the 1970 Statute of Peasant Communities, indigenous communities in the Andes were turned into 'Peasant Communities' (*Comunidades Campesinas*) and as such eliminating any ethnic reference to their indigenous identity (Chirif 2010). This reduced the essence of these communities to their occupational activities and replaced their indigenous identity by class. In addition, while Peasant Communities maintained a certain degree of autonomy, they had to conform to an imposed form of government and organization (Remy 2014).

Amazonian peoples did retain their indigenous character but the Velasco regime also formalized and imposed a new form of organization for them: the Native Community, a reduction or concentration of indigenous groups of the same ethnic origin with a delimited territory and a legal status (Chirif and García Hierro 2007). The Native Community model is similar to the Peasant Community and differs from the traditional Amazonian systems of territorial, social and productive management. It fragments ethnic Amazonian peoples or societies into a number of smaller units, each with its own legal status and its own direct relationship with state entities (Garra and Riol Gala 2014). For both Native and Peasant Communities, this new model resulted in the replacement of the traditional elder leaders by a new, younger and bilingual leadership.

¹⁰ Illiterate citizens were not allowed to vote. This resulted in the exclusion of a large majority of indigenous people from voting.

One of the most important episodes of recent Peruvian history, the domestic conflict and emergence of guerrilla movements applying terrorist tactics in the 1980s and 1990s, further marginalized indigeneity. In a context of increasing inequality, the Shining Path's¹¹ communist promises drew upon the discontent of disadvantaged groups, which consisted mainly of indigenous Andeans who suffered the dual burden of economic deprivation and racial discrimination, to recruit for their insurgence framed as a class struggle, i.e. the poor, rural peasants against the upper-class establishment, with no mention of their indigenous identity (Harvey 1992).

Peru's history is characterized by the writing out of indigeneity. The non-indigenous majority claims that the gradual replacement of an indigenous identity by class or occupation is the logic result of many centuries of *mestizaje* or ethnic mixing that has according to them made Peru a nation of mestizos (Due Process of Law Foundation 2011b). This claim is based on the idea that one can only be considered indigenous if the traditional way of life is maintained without much interference of modern society. This seems to be the dominating belief in Peru since generally only Amazonian peoples, who have remained isolated from modern society for much longer and therefore 'mixed' to a much lesser degree, are officially recognized as indigenous.

In addition to these outside attempts to dismiss indigeneity, many indigenous Peruvians themselves, in particular Andean people, rejected their indigenous identity because of the associated marginalization and the negative connotation

¹¹ Sendero Luminoso or Shining Path is a Maoist movement founded in Ayacucho as early as the beginning of the 1970s by university professor Abimael Guzman. Guzman recruited members among his students and fellow professors, many of them from poor indigenous communities who then returned to their villages and spread the word. In May 1980, Sendero moved on to violent tactics, with its first attack against an election polling station. The use of violence against symbols of state authority and the resulting deaths and destruction increased significantly throughout as the decade moved on. Their recruiting tactics grew increasingly violent, punishing peasants who did not want to join the movement. It was really only by the mid 1980s that the government realized the seriousness of the threat and sent troops to the affected areas. This slowed down Sendero's advance but also resulted in an increased death toll among civilians, who were now targeted by both guerilla and army. Both sides demanded support from villages and those members that did not comply faced merciless retaliation. This had as a result that locals grew fed up with both senderistas as well as security forces. Many of them fled the countryside to Lima for protection where they settled in human settlements on the outskirts of Lima. Those that were left behind organized themselves into Rondas Campesinas and Comites de Defensa Civil (Peasant Patrols or Committees of Civil Defense) to protect their communities. The increasing discontent among peasants and the consequent growing Rondas, armed by the army, had a major share in the downfall of Sendero Luminoso on the countryside.

of the term *indigena*. The term 'indigenous' only recently regained acceptance among Amazonian and Andean peoples, especially because of the special protections and collective rights that are now associated with the recognition of an indigenous identity. However, the latter is also the main reason why the Peruvian State, lobbied by the extractive and agricultural sectors, prefers to maintain the number of recognized indigenous peoples and communities to a minimum. Although many Andean *campesinos* and Peasant Communities fulfil many of the general identification criteria for indigenous peoples as formulated in UNDRIP and in Peru's Prior Consultation Law, indigenous collective rights only apply to the indigenous communities included in the official database of indigenous peoples. To be included in this database, communities and peoples have to fulfil additional criteria, i.e. the use of an indigenous language and maintaining collective community land (Ministerio de Cultura 2016c), which, due to a long history of discrimination and assimilation by mainstream society as well as policies promoting or enforcing privatization of community lands, have excluded many communities who would otherwise qualify.

Inclusion in the database for indigenous peoples comes with certain rights and protections such as the right to prior consultation on decisions that directly affect them, including on extractive projects. Therefore, the private sector and several government sectors strongly oppose the inclusion of more Peasant Communities in the database claiming that it would be devastating for national development if all Peasant Communities in the mineral-rich Andes would acquire these rights and halt new mining projects that are crucial in maintaining Peru's economic growth.

3.3. National development discourse

Ever since the Spanish conquistadores set foot on the territory that later became Peru, the latter has been known for its wealth in minerals and other natural resources. It is therefore no surprise that its economy has been strongly dependent on the exploitation of these resources. Extractive activities, from oil exploitation to mining and logging, have undoubtedly had a central role in the national development of Peru and have therefore been the focus of the national development discourse. Unfortunately, national development has largely been

at the expense of Peru's indigenous in both the Andes and the Amazon since extractive activities have proven to be detrimental to indigenous peoples and their land rights. At the end of the 19th century, many Amazonian peoples experienced this with the exploitation of rubber in the Amazon rainforest. The Amazon rubber boom and its horrible abuses and enslavement of the indigenous population disrupted the latter's economic, cultural and demographic social structures since it forced the migration of 40,000 natives (Chirif and Mora 1980).

Even though the rubber boom subsided and calm returned to the Amazon, the threat to indigenous lands has remained ever since. Although there have been some positive achievements, for instance the government of President Joaquin Leguía legally recognized indigenous communities and declared their lands as imprescriptible, inalienable and indefeasible in 1920, the last century of Peruvian history has seen a systematic dispossession of the lands of indigenous peoples in the name of national development (Chirif and García Hierro 2007).

When the threat of terrorism diminished in the mid-nineties, the country's focus gradually shifted from national security to national development and economic growth. President Fujimori's neoliberal policies are still seen by a large fraction of the Peruvian population as the driver of Peru's economic growth of the late 20th and early 21st century, and is one of the main reasons, besides supposedly defeating Shining Path, why he still enjoys so much support in Peru, even though he is incarcerated for corruption and human rights violations. For indigenous peoples, however, these neoliberal policies had negative implications for especially their land rights. In the 1993 Constitution, Fujimori scaled back the special status and protective measures for collective lands. The inalienable and inalienable character of indigenous lands was removed, and only lands that had not been abandoned remained imprescriptible. If the land was abandoned, it would pass to the State, which could sell it to third parties (Ortiz and Chirif 2010). The latter had widespread implications, since many Andeans had left their lands and communities to flee the violence of the internal conflict.

It is therefore surprising that it was the same president that signed the International Labour Organization's (ILO) Convention 169, which is a legally binding international instrument dealing specifically with the rights of indigenous and tribal peoples (ILO 1989b). ILO Convention 169 was discussed in more detail in Chapter 1. It seems contradictory that one year later this same government developed the Land Act or the Law of Private Investment in the Development of Economic Activities on National Lands and of Peasant and Native Communities (Law 26505), which parcelled out the lands of the communities and weakened its social organization, transforming them from institutions based on a partnership model defined by their ancestral links to the territory into productive units, in which community members become partners each owning their part of the community's land, which they can sell or rent (Ortiz and Chirif 2010). It also had important ramifications for land tenure since the law allows members to sell or lease communal lands to outsiders when approved by not less than two-thirds of the community's General Assembly (Ortiz and Chirif 2010).

Since at that time, the main interest was in the fertile agricultural lands of the coastal Peasant Communities and the mineral rich lands of the Andean Peasant Communities, Native Communities were not affected as much yet (Ortiz and Chirif 2010). The lack of interest for the lands of Native Communities changed dramatically when Alan Garcia returned to power. He had already been President of Peru from 1985 to 1990. His first term was marked by hyperinflation, economic crisis and the social unrest. He allegedly was also tied to paramilitary groups, who were responsible for political murders and forced disappearances. In addition, his military reply to growing terrorism included human rights violations including the summary execution of more than 200 prisoners. Just one year after the inauguration of his second term, he published the article '*El Perro del Hortelano*' or 'The Dog in the Manger' setting out his government's position and plans concerning Native Communities and their lands. Drawing on the national development discourse, he argued that land and resources that could contribute to national development and economic progress were wasted by indigenous communities because of their lack of aspiration to progress in life and their lack of productive and commercial skills. He complained that not only do these people not exploit the available resources

themselves, they altogether prevent these lands and resources from benefiting national interest and development. He proposed to sell these lands to entrepreneurs with capital and technology in order to make them productive and as such create jobs and wealth, which will benefit their previous indigenous owners, who will work as employees on their former lands (Chirif and García Hierro 2011).

García's threats initiated the largest and most cunning attack on indigenous rights by a Peruvian government since the establishment of the Republic. Legislative bills to put his plans into practice had been rejected by regional governments, grassroots organizations and by the legislative committees of Congress but got approved by distributing its content among several executive orders and using the special powers that were granted by Congress to enact laws to facilitate the implementation of the Free Trade Agreement between Peru and the United States (Chirif and García Hierro 2011). Under this umbrella, the government passed decrees that nullified consultation processes with communities on granting mining contracts as well as a new forestry law that allowed the privatization of forests and standards lowering the requirements for the parcelling and sale of collective lands to third parties (Chirif and García Hierro 2011).

Expectedly, native Amazonians saw these executive orders as a vicious attack against their fundamental rights as indigenous people, i.e. the right to their ancestral lands and the right to be consulted on issues that affect them, and reacted by rising up against the government. Large demonstrations and strikes were organized in 2008 and 2009 all over the Amazon region and Lima, but the protests were particularly intense in the areas where the Awajún and Wampis peoples live. After 53 days, a roadblock near the city of Bagua was violently cleared by the police on the fifth of June 2009 leading to confrontations that left 33 people dead, both policemen and civilians (ODECOFROC 2010b). Several indigenous leaders were charged for the deaths of the police agents while no government actors were indicted nor was political responsibility assumed. The trial of the indigenous leaders concluded in September 2016 with the acquittal of all 53 accused. In April 2017, however, the prosecutor requested the annulment of the sentence that acquitted three Awajún leaders (La Republica

2017a). The *Baguazo*, as these events have come to be known, will be considered further when discussing the Awajún.

The strong national and international pressure following the *Baguazo* and the mobilization of indigenous organizations, led by the Interethnic Association for the Development of the Peruvian Rainforest (AIDESEP), resulted in the repeal of some of the executive orders affecting indigenous rights and the development of the *Ley de Consulta Previa*, the Prior Consultation Law (Aylwin and Tamburini 2015). Despite its limitations, i.e. the lack of retroactive application and the absence of the requirement to obtain consent, Law 29785 did mean a step in the right direction, acknowledging the right of indigenous peoples to be consulted on matters that affect them and their lands and it has helped to put indigenous demands on the national agenda (Ruiz Molleda 2011a).

However, the strong focus on national development has remained with governments prepared to override their commitment to indigenous or environmental rights in the pursuit of development and economic growth. Even though former President Ollanta Humala (2011 – 2016) promised during his election campaign to not let mining interests guide his presidency and instead support local peasants in their fight against the powerful mining interests, he as well conceded to the strong pressure to maintain economic growth (Silva Santisteban 2016). His government developed a legal framework that included Law 30151, commonly referred to as the “*paquetazo ambiental*” or environmental package, aimed at promoting investment in extractive projects by lowering environmental protection standards, but that also allows the use of force by the police and the army and criminalizes and stigmatizes those who protest or disagree with the extractivist discourse (Silva Santisteban 2016).

This tension between the dominating national development discourse with a focus on extractive activities on the one hand and *Buen Vivir*, the indigenous model and perspective of development and progress, which is further explained when discussing the right to development in section 4.16, and an increased awareness of indigenous rights on the other hand have led to a perpetual cycle of socio-environmental conflicts.

3.4. Socio-environmental conflicts

The Peruvian Ombudsman identified 204 conflicts in October 2017, of which 140 active and 64 latent conflicts. 65.7 percent of those involved the national government, 20.6 percent a regional government and 8.3 percent a local government. The great majority of conflicts, i.e. 68.1 percent, are of socio-environmental nature. Of the 139 socio-environmental conflicts, 92 involve mining (66.2 percent), 18 involve oil extraction (12.9 percent), 13 other forms of energy exploitation (9.4 percent), five waste and sanitation issues (3.6 percent), four agro-industrial activities (2.9 percent) and two involve forest exploitation (1.4 percent) (Defensoria del Pueblo 2017). Many of these socio-environmental conflicts involve indigenous peoples, mainly indigenous Andeans in the case of mining and indigenous Amazonians in the case of oil extraction, forestry and agro-industrial activities.

The disproportionate share of socio-environmental conflicts is mainly due to the above-mentioned proliferation of the large-scale extraction of natural resources. 20th and 21st century Peruvian governments adapted the Commodity Consensus, focusing on enabling the large-scale export of primary products, in their national development discourse. However, this national development focus not only created a strong dependency on commodities and its prices, but it also led to the dispossession of mainly indigenous land, resources and territories (Raftopoulos 2017). As has been discussed before, traditional lands and territories are of the highest importance to their survival as a people and therefore, with this fundamental right threatened by extractive activities, it should be no surprise that they would do anything within their power to oppose these plans. If there are no proper complaint mechanisms or other alternatives to claim their rights but instead they are met with a lack of political will and hard talk from government actors, they will organize protests and if these are met with repression from security forces, as has been often the case, violent conflicts between indigenous peoples and the State will inevitably emerge.

One such instance is the Conga conflict, one of the most high-profile socio-environmental conflicts of the last decade that has had important political

implications. The proposed Conga mine in Cajamarca is a project of the company Yanacocha, which is owned by the U.S.-based Newmont Mining Corporation and Peruvian partners. The project aims to exploit 34,000 hectares of land to extract gold and copper (Newmont 2013). One of the major controversial aspects of this project is that it plans to drain and exploit two of the most important lagoons of the area, which locals, mainly indigenous peasants whose livelihoods depend on small-scale agriculture, fear will threaten their water resources and supply. In addition, Yanacocha has already a very negative reputation in rural Peru because of their responsibility in one of the worst environmental disasters in Peru. In 2000, a truck contracted by Yanacocha spilled 151 kilograms of mercury poisoning at least 750 people in the town of Choropampa and two neighboring villages (El Comercio 2011). This negative reputation, the high potential impact of the Conga project on the livelihoods and resources of the local population as well as the politicization of the conflict by politicians at all levels have contributed to the high intensity of this conflict over an extended period of time. In a span of six years, this conflict has experienced many states of emergencies, large protests accompanied with police repression, and violent escalations resulting in the deaths and injuries of protesters. In February 2016, Newmont Mining announced in a U.S. financial filing that it is abandoning the Conga project for the foreseeable future (Mining.com 2016).

Civil society organizations estimated that up to 250 communities would potentially be affected by the Conga mine (Catapa 2015) even though Yanacocha claims that only 32 Peasant Communities are within the overall operation area (Newmont 2013). While many of these communities are not officially recognized as indigenous, i.e. they are not included in the national database, they have undeniably maintained a high degree of indigeneity, preserving their subsistence farming way-of-life, their strong attachment to their lands and other distinct traditions and customs. This project threatened their traditional lands and natural resources rights, their right to a healthy and clean environment and their ability to maintain their own way of life as subsistence farmers.

In addition to the threat of extractive activities to the indigenous rights to land and natural resources, the pollution and contamination of their environment and especially their water sources have caused many socio-environmental conflicts both in the Andes and in the Amazon region. Extractive activities have had and continue to have a disastrous environmental impact on the health and quality of life of many indigenous peoples in both the Andean and Amazon region. Environmental disasters harming not only the environment but also potentially local people's health such as oil spills or heavy metal contamination seem to occur on a regular basis even though there are now stricter environmental regulations for extractive activities in place. However, regulations are not sufficiently enforced and infractions often go unpunished. There has also been more recently strong pressure from industry and its backers in government institutions to relax these regulations and as such facilitate further investment for the sake of national development and economic growth, especially since the latter has slowed down in the last few years. The inactivity of the State in case of environmental damage or disaster and its seemingly unconditional support for large corporations have exacerbated these conflicts.

In June 2014, for instance, the state company Petroperú's oil pipeline in Cuninico in the Loreto region of the Amazon leaked more than 1,600 barrels of oil, which directly affected five indigenous Kukama communities. The oil killed fish, the main source of food for these communities, and other animals and contaminated the river that the communities use for drinking, cooking, washing and bathing. As these communities have no alternative water sources, they did not have another choice but to use the water and many became ill after drinking the water or bathing in the river. Six months later, only one of these communities had received water and food from the government. Just a few months after that, there was another oil spill close to the neighboring community of San Pedro (IWGIA 2015). At the end of 2016, locals still had no safe source of drinking water and no way to purify the river water since the government denied their request for a temporary water purification plant declaring the spill site clean even though the water still shows traces of oil after a heavy rain and smells of gasoline around the pipeline (Mongabay 2016).

Besides mining and oil exploitation, the extraction of natural gas has also led to socio-environmental conflicts between the State and indigenous peoples. Natural gas extraction is carried out in some of the most isolated parts of the Amazon where indigenous peoples in initial contact and voluntary isolation live. The Camisea gas project is Peru's largest energy development and plays a key role in Peru's economy. However, almost 75 percent of the gas concession overlaps with a reserve created for indigenous peoples living in initial contact and voluntary isolation (Guardian 2014). A report by Forest Peoples Programme (FPP) states that this large project threatens their very existence and survival as indigenous peoples because it violates their fundamental rights to life, i.e. there are serious health risks associated with contact with outsiders, to a healthy environment, to their territorial and cultural integrity and to their self-determination (Forest Peoples Programme 2014b).

However, it is not only the classic extractive activities that have contributed to the vast number of socio-environmental conflicts between indigenous peoples and the State, but also other kinds of national development projects that are a product of the diversification of extractive activities and the "accelerated pace of natural resource exploitation at an industrial level and the construction of mega-projects and infrastructure intended to make full use of natural resources" (Raftopoulos 2017: 388). In Peru in particular logging, both legally and illegally, the agro-industry and hydroelectric plants have wrecked havoc among indigenous peoples of the Amazon.

In particular illegal logging¹² and the large-scale palm oil plantations¹³ have been the main drivers behind the deforestation of the Amazon forest. The

¹² Illegal logging has increased spectacularly in recent years while the Peruvian government seems to be unable to halt it. A 2012 World Bank study shows that 80% of wood exported from Peru is illegal and that Peru loses about 250 million dollars every year because of illegal logging (World Bank 2012). The Peruvian government attempted to control illegal logging through a concession system but this instead caused a large increase in deforestation in other areas. The Agency for Supervision of Forest Resources (OSINFOR in Spanish) found that many concession holders were using the system to launder illegal wood from neighboring indigenous lands and protected areas by combining legal and illegal wood and thus avoid detection (Environmental Investigation Agency 2018). This poses a serious threat to not only the lands and resources of indigenous peoples but also their lives as the World Bank report indicated that the illegal logging industry is using violent mafia practices that are usually associated with arms and drugs trafficking while enjoying impunity through high-level corruption (World Bank 2012).

¹³ The promotion of agro-industry to boost national development and in particular the clear felling of primary forests for palm oil plantations is one of the main drivers of the deforestation of the Amazon. Only in the San Martín and Ucayali regions, a total of 38,000ha of primary forest were cleared in order to establish palm oil plantations between 2000 and 2009, at an average of

Peruvian Amazon covers a total of 78'282,060 hectares of which 1'415,595 hectares have been deforested. According to the Peruvian Amazon Map 2014, 25 percent of deforested hectares were recorded in indigenous territories and protected natural areas (Gestión 2014). As indigenous peoples have a strong connection with their ancestral lands and depend on the forest and its resources for their survival, this threatens their very existence. Indigenous defense of their ancestral territories led in 2014 to the high-profile murder of four Ashéninka leaders from the Alto Tamaya-Saweto community in the Ucayali region by illegal loggers. One of the men killed, Edwin Chota, had been denouncing the lack of security for his community and advocating for the recognition and protection of their lands for more than ten years. However, it still took the government almost one year after the murders to take appropriate measures. After more than a decade of struggle for land titling, his community finally received the title to almost 80,000 hectares of their ancestral lands (AIDSEP 2015b). Many other communities remain without land titles nor protection against the violent intrusions of illegal loggers.

Peru aims to satisfy the increasing demand for energy through large hydroelectric power plants. The impact of a hydroelectric plant on the environment and the local population, however, can be significant: the displacement of people, deaths of animals, changes to the hydric systems up- and downstream, and changes to the ecosystem (Amancio 2015). 20 hydroelectric plants are planned for the Marañón River basin. A report by the NGO International Rivers determined in 2015 that if the twenty dams were built, they would flood 80 percent of the Marañón basin. As often, indigenous peoples would be the main groups affected, i.e. a 2011 congressional report stated that the land occupied by indigenous communities in the basin represents 27 percent of the surface area of influence (Amancio 2015). Protests have already claimed the lives of one indigenous leader and activist, Hitler Rojas, in December 2015.

However, not all conflicts are due to indigenous peoples rejecting extractive activities altogether. Socio-environmental conflicts can be divided in three categories: indigenous groups completely reject a certain project, indigenous

4,200ha per year. It is believed that a massive expansion of palm oil is both imminent and planned because Peru is still an importer of palm oil (Forest Peoples Programme 2014b).

groups denounce the lack of consultation in its development, and indigenous groups demand the compliance of the State or private actors with agreements previously made.

An example of the first category is the opposition of the Peasant Community of San Juan de Cañaris in the region of Lambayeque against the extraction of copper. They not only fear the contamination of their environment but also demand respect for their indigenous right to self-determination, in particular for the decision made by their community assembly to not support these activities (Defensoria del Pueblo 2017). The second category is illustrated by the opposition of several Native Communities of the Morona Basin in the Loreto region to the development of hydrocarbon activities in Lot 64 because of the lack of consultation even though this is their right as recognized indigenous (Defensoria del Pueblo 2017). Lastly, various indigenous groups of the border area with Ecuador demand that the State respects the agreements made during the consultation process on Lot 192, in particular actions contributing to the process for recognition, registration and titling of ownership of the territories of the Native Communities in the basins of the Pastaza, Tigre, Corrientes and Marañon rivers (Defensoria del Pueblo 2017).

These conflicts are often exacerbated by divide-and-conquer strategies applied by some extractive companies facing opposition aimed at creating conflict within opposing indigenous communities. The promise of jobs and other rewards or benefits to those community-members and communities that support the project are intended to convince people in the area of influence to not only approve the project but also to pressure and intimidate opponents, if necessary with the use of force. For instance, the Hunt Oil Corporation of Texas in seeking a social license for its exploratory work in Lot 76 was especially vicious in its divide-and-conquer tactics. It hired sub-contractors to go into the communities within the zone of impact making offers to those members who seemed more open to a western understanding of 'development' and 'progress', looking for weak spots and ways to co-opt these people. They painted a picture of progress that was hard to refuse for many parents dreaming of a better education for their children (Verdecchia 2011). These tactics created internal

divisions within communities and families and resulted in the approval of Hunt Oil's exploration activities in the Amarakaeri Reserve (The Guardian 2014b).

3.5. Conclusion

As can be seen from this chapter, indigenous peoples definitely did not have the easiest of ordeals in Peru ever since the Spanish *Conquistadores* set foot on the territory that is now the Republic of Peru. The marginalization of indigeneity, the imposition of a development perspective that did not stroke with their culture and values and a seemingly unending cycle of conflicts with the Peruvian State, which is supposed to protect and represent them, still characterize the tragic fate of indigenous peoples in Peru today.

The marginalization of indigeneity has repressed indigenous rights claims much longer in Peru than in other countries with indigenous minorities. In comparison with other Latin American countries, it is only quite recent that the awareness of their collective rights as indigenous peoples has gradually increased and that they have started to organize themselves to claim these rights. The continued unwillingness of the State to truly address these claims as well as their continued insistence on a national development discourse that goes directly against many of these indigenous rights claims have resulted in this cycle of socio-environmental conflicts with the State. However, the increase of rights awareness and of the intensity of rights claims, combined with the growing international indigenous movement and international indigenous rights framework, has moved the Peruvian State to incorporate to a certain degree indigenous rights in their legislation and policies. Chapter Four will analyze Peru's current legislation and policies concerning indigenous issues and rights.

Chapter Four: Current policies on indigenous rights in Peru

In this chapter, Peru's current policies on indigenous rights will be examined. It will be considered to which extent the most important indigenous collective rights are incorporated in Peru's national legislation and what some of the main implementation challenges are. This will assist in putting the rights claims made by research participants in the following chapters into context as well as contribute to the evaluation of these rights claims for conflict transformation purposes by providing insight into whether rights claims result from the lack of incorporation of collective rights in national legislation and policies or rather from the lack of proper implementation of existing laws and policies already including these rights. The answer to this question can have important implications when considering priorities for a more specific conflict transformation approach. Even though ILO Convention 169 is the only legally enforceable international indigenous rights instrument, this analysis is based on the collective rights included in UNDRIP, mainly because it is currently the most comprehensive international indigenous rights instrument and as such to ensure that all major indigenous rights are covered in their entirety. UNDRIP covers all major subject areas while ILO Convention 169 is still limited in the subject areas it covers. In addition, some rights are included only to a limited degree in ILO Convention 169, e.g. it includes the right to consultation, however, it is agreed nowadays that the full indigenous collective right should be the right to free, prior and informed consent, which is included in UNDRIP.

4.1. The right to be free from discrimination¹⁴

The Peruvian Constitution states that "everyone has the right to equality before the law. No one should be discriminated against on grounds of origin, race, sex, language, religion, opinion, economic status or any other" (Congreso de la Republica 1993: 1). In turn, the Criminal Code defines any act of discrimination as a crime carrying a punishment of minimum two and maximum three years of incarceration or of 60 to 120 days of community service (Congreso de la Republica 1991).

¹⁴ UNDRIP Article 2. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular those based on their indigenous origin or identity.

Even though Peru is a very diverse country, discrimination on the basis of race and ethnicity is still very widespread, as also the Peruvian government acknowledges. The Alert Against Racism webpage of the Peruvian Ministry of Culture pertinently describes the current state of racial discrimination in Peru as “a problem that seriously affects Peruvian society as it accentuates a context of national disintegration. The construction of a social imaginary centered on the superiority of certain physical, ethnic, cultural and aesthetic identities has generated the rejection by certain social sectors of those considered as different and inferior to an established paradigm” (Ministerio de Cultura 2017c).

Racism and discrimination have been so ingrained into Peruvian society for centuries that it is perceived as normal that certain people are entitled to a better treatment, better jobs or education while others are not. Even though there have been some legislative efforts and there are institutions such as the Ministry of Culture’s discrimination hotline Alert Against Racism and the Ombudsman, very few administrative measures or judicial prosecutions were initiated on the grounds of racial discrimination. This is mainly because of the widespread nature of discrimination, the difficulty of clearly identifying both the discriminated persons as well as those discriminating and the internalization of discrimination by victims, who have often become used to this treatment. Victims often feel ashamed, have no trust in the government and have no easy access to the existing mechanisms because of their marginalization.

The main victims of discrimination and racism in Peru are indigenous people, both from the Andes and the Amazon. When indigenous individuals visit or move to non-indigenous towns or cities, they have to deal with blatant racism, often being called one of the many pejorative terms that exist for people of Andean or Amazonian descent. In addition, the fact that an indigenous person on average earns 318 soles while a non-indigenous person earns an average of 695 soles per month, is clear evidence of this discrimination (Galarza 2012). The existence of discrimination against people of indigenous background is widely acknowledged, even in Lima. 74.7 percent of inhabitants of Lima agree that justice is not the same for people of indigenous background and 89.5 percent believe that there is discrimination against people from rural areas,

generally referring to people of indigenous background (Ministerio de Cultura 2016a).

Research has consistently pointed out the relationship between ethnic-racial discrimination and social exclusion. Poverty maps indicate that social exclusion is concentrated in districts where there is a higher percentage of indigenous population (Ministerio de Cultura 2017c). On average, inhabitants of these districts have lower education levels, less skilled jobs or low-productivity economic activities, less access to public services and social programs which are also of lower quality (Ministerio de Cultura 2017c). Without specifically asking respondents whether they feel discriminated against, their answers made it clear that they are convinced that they are not treated equally compared with their non-indigenous countrymen. Besides the structural discrimination in for instance education and healthcare, they stated that they also experience blatant racism and discrimination both by the State and by non-indigenous Peruvians.

4.3. The right to self-determination¹⁵

As discussed in Chapter One, the term ‘self-determination’ in indigenous contexts refers to their collective right to internal self-determination, necessarily including the right to differentiate themselves from the majority by preserving their languages, cultures, and traditions, the right to their traditional lands and resources and the right to greater autonomy and decision-making power over issues that affect them as a people (Coffey and Tsosie 2001). Self-determination allows indigenous peoples to preserve and develop their distinctive identities and to enjoy their collective rights and determine their own futures (Anaya 1996). The right to self-determination has not explicitly been named or referred to in Peruvian legislation. However, considering that self-determination encompasses all aspects of daily life and human development, including cultural, social, political and economic development (Muehlebach 2003) and is the basis of and a prerequisite for all other collective rights and freedoms, it can be said that different aspects of the right to self-determination

¹⁵ UNDRIP Article 3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

are adopted separately in Peruvian legislation.

4.4. The right to internal autonomy and their own institutions^{16,17}

Indigenous peoples in Peru do not enjoy a high degree of autonomy or self-government. They have not achieved the same level of autonomy as for instance indigenous people in Panama or Nicaragua, whose self-governments are recognized by the State and are assigned certain powers and resources of the public budget. There are, however, a few references to indigenous autonomy and self-government in various national legal instruments in force and indigenous communities¹⁸, not indigenous peoples or nations, have been granted a limited level of self-government.

The Peruvian Constitution of 1993 grants autonomy to indigenous communities to self-govern on certain matters, i.e. their internal organization, communal work and the use and free disposal of their lands, as well as for internal economic and administrative matters (Congreso de la Republica 1993). However, it is important to emphasize that indigenous autonomy in Peru is entirely focused on the legal constructs of Native and Peasant Communities, which divide indigenous peoples into small fractions based on their current settlements that are the results of centuries of colonization. The Peruvian interpretation of indigenous autonomy focuses on autonomy within the borders of a Native or Peasant Community as opposed to within the integral ancestral territory of an indigenous people. Native and Peasant Communities have a legal status and are considered completely independent from one another. This considerably diminishes the scope of genuine indigenous autonomy, inhibiting the development by an indigenous people of an autonomous indigenous nation on their integral ancestral territory (Espinosa 2014).

While Native Communities have a certain level of self-government, the implementation and specific design and organization have been pre-determined

¹⁶ UNDRIP Article 4. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

¹⁷ UNDRIP Article 18. Indigenous peoples have the right to participate in decision-making in matters that would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

¹⁸ Native and Peasant Communities

in the Regulation of the Law of Native Communities and Agrarian Development Of the Jungle Region, Law 22175, which for instance requires communities to have a General Assembly, a President, Secretary and Treasurer with specified tasks. In addition, the Regional Agriculture Departments have to provide the appropriate credentials to the board members of the Native Communities, implying that they need the State's approval or confirmation (Congreso de la Republica 1978).

However, an increased awareness of collective rights among in particular Amazonian peoples has led some of them to take matters into their own hands. In 2015, as a strategy of territorial defense and a response to external intentions to divide them, about 100 Wampis communities of the Morona, Santiago and the Cenepa basins in the Amazonas region decided to form the Wampis Nation, the first indigenous nation in Peru, with its autonomous territorial government (La Republica 2015b). It was the result of a long process of several years in which the Wampis held more than 50 community meetings and 15 general assemblies to prepare and discuss their constitution. The process was accompanied by anthropological, legal and biological studies to support the creation of the Autonomous Territorial Government. Their constitution is based on the obligations of the Peruvian State to the Wampis as an indigenous people (La Republica 2015b).

The Wampis Nation and its Autonomous Territorial Government should not be seen as a sovereign Nation-State but instead as the implementation of the right of a people-nation to have an autonomous government within today's Peruvian multinational State (Diario Uno 2016). It is not an attempt to become independent and separate itself from the Peruvian State. As Gil Inoach Shawit, Awajún indigenous lawyer and a prominent indigenous leader explains: "The Wampis' message is: Hey, state! From now on, you will not only attend to our demands as Native Communities, you will also listen to our demands as a people. We have our own vision of development as a people, and we also have the right to be heard" (Servindi 2015b). The State, however, does not give a legal status to a territorial indigenous government or any political and legal representation of an indigenous people beyond the community level. The Wampis have therefore requested the enactment of a special law to recognize

the legal status of Territorial Autonomous Governments and as such fully comply with ILO Convention 169 and UNDRIP (Servindi 2015b).

4.5. The right to participate in the State¹⁹

There continues to be a lack of indigenous representation in state institutions, even though legal provisions aimed at promoting participation do exist in Peruvian legislation. The Constitution required that quota be established by law to ensure the representation of indigenous peoples in the Regional and Municipal Councils (Congreso de la Republica 1993). The 2002 Regional Elections Law (Law 27683) and the 1997 Municipal Elections Law (Law 26864) established that the lists of candidates for Regional and Municipal Councils should consist of at least 15 percent indigenous candidates (Jurado Nacional de Elecciones 1997; Jurado Nacional de Elecciones 2002). While this can be considered as a step in the right direction since it has resulted in an increase of indigenous candidates in municipal and regional elections, it has not led to their proportional representation. First, indigenous candidates are usually given non-electable positions on the lists. Secondly, political parties have found ways to circumvent the quota law and avoid real indigenous participation by recruiting co-opted candidates that might ethnically be Andean or Amazonian but who do not truly represent the indigenous as a people nor are advocating for indigenous rights and interests. The current situation is even more problematic on the national level without any measures to promote indigenous representation. This has led to the request to the National Election Board to study a reform of the quota system for the municipal and regional levels as well as to promote the establishment of a special indigenous constituency in Congress to guarantee representation on the national level (Aylwin and Tamburini 2015).

In addition to the deficient indigenous representation among elected officials, the lack of indigenous participation in the State's institutional framework and in the management and implementation of public policies are of great concern. The Vice-Ministry of Interculturality, the state institution representing indigenous

¹⁹ UNDRIP Article 5. The right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

issues and part of the Ministry of Culture, is dependent on the decisions of the executive branch and has failed to establish itself as an effective governing body on indigenous issues since it lacks credibility with indigenous people as well as any authority towards other state institutions. It is the task of the Vice-Ministry to implement the right to prior consultation and to develop the registry of Peru's indigenous peoples and their organizations, both of which they have been heavily criticized for by indigenous people. The latter are therefore striving for the creation of a specialized state institution with full administrative and budgetary autonomy, and real political and institutional capacity to lead and coordinate the formulation and implementation of public policies and programs on indigenous issues (Pacto de Unidad 2014c).

The only legally recognized indigenous institutions are those on the community level. Because of their small scale and resulting lack of political weight in addition to a lack of political experience of their leadership, they have not been very influential on the national level. There are also indigenous federations, which represent different communities based on geography, for instance within a particular river basin, or on ethnicity. These federations have no legal or official status and are not recognized as governing bodies and therefore only serve as organizations that lobby for the interests of their members. Unfortunately, there is a high degree of fragmentation among indigenous peoples and as a result conflicting and overlapping organizations have emerged that fight each other over influence, members and priorities.

In addition, there are several organizations that claim to represent the interests of indigenous peoples on the national level but they have also been divided on certain issues. The Inter-Ethnic Association for the Development of the Peruvian Amazon (AIDSESEP) and the Confederation of Peruvian Amazonian Nationalities (CONAP) are the oldest and most established ones but have followed divergent paths (Chirif 2014). While AIDSESEP focuses on the fundamental rights of indigenous peoples such as self-determination, intercultural bilingual education and territory, i.e. the foundations of the international indigenous movement, CONAP adheres to a social class discourse, in which indigenous people are part of an exploited class, which requires allying themselves with other exploited sectors of society. Even though

currently AIDESEP is the most influential on the national stage, it has also been plagued by several internal crises (Chirif 2014).

4.6. The right to live in freedom, peace and security as distinct peoples and protection against genocide²⁰

The right to live in freedom, peace and security is established for all Peruvian citizens in Article 2 of the Peruvian Constitution (Congreso de la Republica 1993). However, the latter is in practice not guaranteed for some indigenous peoples in Peru. Many Native Communities are living under the constant threat of illegal logging, illegal mining or drug trafficking, illustrated by the murder of the four Ashéninka leaders from the Alto Tamaya-Saweto community by illegal loggers, which was mentioned in Chapter 3 when discussing socio-environmental conflicts. These illegal activities are associated with violent mafia practices and the trafficking of arms and drugs and enjoy impunity through high-level corruption (IWGIA 2015). While this particular Ashéninka community has finally received the title to a large portion of their ancestral lands, many other communities remain without titles to their lands, which, combined with the absence of the State in these isolated areas, leaves them more vulnerable to violent intrusions by outsiders (AIDESEP 2015a).

Article 319 of the Peruvian Penal Code punishes crimes of genocide, the intention of destroying, totally or partially, a national, ethnic, social or religious group, with imprisonment of not less than 20 years (Congreso de la Republica 1991). However, Peru has seen crimes against humanity in the 1990s that can be considered as acts of genocide. According to Article II of the 1948 Convention on the Prevention and Punishment of Genocide, genocide also includes "... imposing measures intended to prevent births within [a national, ethnical, racial or religious] group" (UN General Assembly 1948: 1). In 1995 during the presidency of Alberto Fujimori, a program of forced sterilizations of poor indigenous women under the guise of a public health plan to limit births in poor areas was put into operation. An investigation showed that between 1995 and 2000 331,600 women were sterilized, the vast majority of them

²⁰ UNDRIP Article 7. 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

indigenous Quechua women (Le Monde Diplomatique 2004). In 2014, the Attorney General of Peru dismissed the case against Fujimori and his ministers involved in the forced sterilizations on the basis that there was no proof that it was a systematic policy or that the President was aware of the practice (El Pais 2014).

Nowadays, the greatest risk for genocide is faced by indigenous peoples living in voluntary isolation and initial contact. They are increasingly exposed to contact with outsiders, which has a detrimental impact on their health since they are not immune to some of the most common diseases. Yet, Peru is the only Andean country with a Law for the Protection of Indigenous Peoples Living in Isolation and Initial Contact (Congreso de la Republica 2006). Law 28736 seeks to establish a comprehensive protective regime, ensuring in particular their rights to life and health and safeguarding their existence and integrity. It includes the creation of five transitory intangible indigenous reserves specifically for these indigenous peoples in isolation or initial contact. In these reserves, it is not permitted for outsiders to settle, to carry out activities that are not part of the customs of the local indigenous peoples or to extract natural resources (Congreso de la Republica 2006). However, the latter has an exception, which has opened the door to potential disastrous consequences. If it is deemed of national interest, natural resources can be extracted from indigenous reserves. This exception has been invoked for the Camisea gas project, Peru's largest energy development and, according to its advocates, pivotal to Peru's economy. However, almost 75 percent of the gas concession overlaps with a reserve created for indigenous peoples in voluntary isolation and initial contact (The Guardian 2014a). A report by Forest Peoples Programme (FPP) states that this project threatens their very existence and physical and cultural survival (Forest Peoples Programme 2014a).

4.7. The right not to be subjected to forced assimilation or destruction of their culture²¹

²¹ UNDRIP Article 8. 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. 2. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of

In Chapter Three, it was discussed how the history of Peru from the Spanish colony and the early Republic until today has been characterized by the assimilation and writing out of indigeneity. After obtaining independence, the young Peruvian Republic wanted to construct a culturally homogeneous nation of equal citizens with one official language and religion, which implied that officially there were no longer 'indigenous' people in Peru. This strong focus on assimilationist policies and a civilizing discourse had undoubtedly a devastating impact on indigenous languages and cultures that is felt until today (Fajardo 2002).

In the mid-20th century, Peru followed the international trend as set by ILO Convention 107 on Indigenous and Tribal Populations and moved towards integrationist policies, promoting the incorporation of the indigenous population in the dominating, homogeneous Nation-State. In essence, these policies were not that much different to assimilation and did not imply a significant improvement for indigenous peoples (Aylwin and Tamburini 2015). Towards the end of the 20th century, States gradually moved away from assimilationist and integrationist policies, culminating in the 1989 adoption of ILO Convention 169, which was ratified by Peru in 1994. It is also reflected in the 1993 Constitution, which established a new multicultural, pluralist model of the Peruvian State requiring the State to recognize, respect and protect the individual and collective right to cultural difference. This not only includes acceptance of cultural differences but also proactively promotes the conservation of cultural aspects such as language or customs and strengthening cultural diversity (Fajardo 2002). Their right to their ethnic and cultural identity has been reconfirmed by several Supreme Decrees such as the Supreme Decree approving the National Policy on Indigenous Languages, Oral Tradition and Interculturality (Peruano 2017).

Even though there has not been an official assimilation policy since the mid-20th century, assimilation in practice has continued because of discrimination and marginalization as well as socio-economic factors. The continued

their rights; (d) Any form of forced assimilation or integration; (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

discrimination and marginalization of Peru's indigenous peoples have resulted in the rejection of indigenous identity among many indigenous, especially Andean, peoples. The latter believe that adopting a mestizo identity is the only way to advance in life. In addition, many indigenous families decide to move away from their communities because of a lack of economic opportunities and quality education for their children. Faced with discrimination in their new urban setting, they feel forced to adapt to the mainstream culture and, once again, reject their indigenous identity. However, there is also a revalorization of indigenous identity underway, due to a stronger international indigenous rights movement as well as the 'special rights' that are linked to an indigenous identity, as has been mentioned before.

4.8. The right to determine their own identity or membership in accordance with their customs and traditions^{22,23}

Article 89 of the Constitution instructs the State to respect the cultural identity of the Peasant and Native Communities (Congreso de la Republica 1993). The Civil Code has determined that membership to an indigenous community is acquired by birth, statutory incorporation or permanent residence (Congreso de la Republica 1984). Long-term absence is ground for loss of membership, though exceptionally, long absences are accepted depending on the specific community practice. Communities hold registers of their members and have therefore, within the restrictions of these established rules, the responsibility to determine and record individual membership. Each community assembly sets its own regulations and requirements for the acceptance of community members (García Hierro and Surrallés 2009).

However, it is the State who recognizes peoples and communities as indigenous. The restrictive understanding of the term 'indigenous' in Peru by

²² UNDRIP Article 9. Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

²³ UNDRIP Article 33. 1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. 2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

adding extra conditions or requirements for communities or peoples to be recognized as indigenous as compared to ILO Convention 169 can be considered as a major violation of the right to belong to an indigenous community or nation. The Vice-Ministry of Interculturality is in charge of identifying and recording indigenous communities and peoples in a database. Inclusion in this database is necessary for indigenous communities to qualify for inclusion in prior consultation processes and thus be consulted on state decisions that directly affect them. Because of these significant implications, the development of this database and in particular which Peasant and Native Communities were included was met with much anticipation among indigenous organizations, the business sector and civil society. Article 7.1.2 of the Directive to Regulate the Operation of the Official Database of Indigenous Peoples (Directive 03-2012) indicates that indigenous peoples are identified considering the objective and subjective criteria set forth in Article 1 of ILO Convention 169. However, the Directive only considers two objective elements for proving historical continuity, i.e. indigenous language and communal lands (Article 7.1.3). Both factors need to be present for an indigenous people or community to be included in the database and be considered for prior consultation processes (Congreso de la Republica 2012a).

So far, the database has recognized 55 indigenous peoples, of which 51 are Amazonian and four Andean (Quechua, Aymara, Uro, Jaqaru) (Ministerio de Cultura 2017a). A former researcher who participated in the development of the database claims that his team identified thousands of Native and Peasant Communities as belonging to these 55 indigenous peoples but that, because of concerns about the consequences for the mining industry of the inclusion of so many Peasant Communities in mineral-rich areas, they decided to only publish the list of Native Communities and to further update the database at a later date. Not one of the Quechua-speaking Peasant Communities was considered, while they represent more than half of the communities that should be included (Lanegra 2015). Around the same time, then President Ollanta Humala questioned the indigenous character of Peasant Communities during a television interview on the basis of centuries of miscegenation and their apparent integration into mainstream society and domestic politics (Servindi 2013). In July 2015, the first Peasant Communities were added to the database

(Servindi 2015a), but it was still restricted to those communities where at least 40 percent of members had an indigenous language, mainly Quechua or Aymara, as mother tongue (Ministerio de Cultura 2017a). However, a long history of discrimination and marginalization of Quechua-speakers has resulted in the rejection by younger generations to learn and speak the language and therefore the number of Quechua-speakers has been in decline for decades (El Comercio 2016). Similarly, because of government land policies that have constantly promoted the parcellization and privatization of communal lands, many communities that could be recognized as indigenous, now do not qualify for inclusion in the database because of the requirements of communal lands and indigenous language.

4.9. The right not to be forcibly removed from their lands²⁴

Complementary Provision seven of the Regulations to the Prior Consultation Law requires the State to respect communal property and uphold indigenous peoples' rights to their land. Therefore, indigenous peoples cannot be removed from their lands except under exceptional circumstances (Congreso de la Republica 2012b) and only with their free and informed consent. Relocated people have the right to return to their traditional lands as soon as possible and if this is impossible, they should be provided with lands that are at least of equal quality as their previous lands and that are suitable to provide for their present needs and future development (ILO 1989b).

There does not appear to have been any recent cases of forced relocations of indigenous people from their lands. However, the 20 hydroelectric plants that are planned for the Marañón River basin would flood 80 percent of the Marañón basin, of which 27 percent would be land occupied by indigenous communities. Therefore, it appears that communities in these areas will have to relocate if these hydroelectric plants will go ahead (Amancio 2015). In addition, indigenous people are displaced due to environmental threats caused by climate change or by environmental disasters resulting from oil or mineral exploitation activities.

²⁴ UNDRIP Article 10. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

4.10. The right to practise and revitalize their culture and religion^{25,26}

Article 2.19 of the Constitution establishes the right to ethnic and cultural identity and Article 89 determines that the State has to respect the cultural identity of Peasant and Native Communities (Congreso de la Republica 1993). While both Andean and Amazonian peoples are generally able to practice their cultural traditions and customs, colonization, forced assimilation policies, *mestizaje* or miscegenation, migration and more recently globalization have had a negative impact on the cultural practices of indigenous peoples, especially in the Andes. While some practices have been lost, others have been maintained to a certain degree through a process of syncretization of traditional cultural aspects and introduced European, especially Catholic, elements. More recently, efforts to revitalize indigenous cultures, especially in the more touristic areas of Peru, have intensified because of the interest by tourists.

Furthermore, while the right to practice their culture is not explicitly restricted, the government and private actors indirectly obstruct its full realization. In Andean and Amazonian cultures, nature plays an essential role. Mountains, rivers and other natural elements of their environment and ancestral territory are their sacred places and pivotal in cultural and religious practices. Development, extractive and agro-industrial activities and non-indigenous settlements on non-titled parts of indigenous ancestral territories directly threaten these cultural and religious sites and limit indigenous access.

Archaeological or historical sites and artifacts belonging to the various pre-Columbian cultures, ancestors of the current Andean indigenous peoples, are

²⁵ UNDRIP Article 11. 1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature. 2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

²⁶ UNDRIP Article 12. 1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

considered general Peruvian heritage and according to Article 21 of the Constitution are owned and managed publicly by the national, regional or local government (Congreso de la Republica 1993). There has not yet been much indigenous participation in the management of these sites.

4.11. The right to maintain, control, protect and develop their traditional knowledge and intellectual property rights²⁷

International attention and commercial interest for traditional knowledge and other aspects of Andean and Amazonian cultures, such as traditional textiles, music and dances, handicrafts, native crops and medicinal plants have increased the importance of issues such as cultural appropriation and intellectual property for Peruvian indigenous peoples. The State, by constitutional mandate, must respect the ownership of Peasant and Native Communities over their collective knowledge (Tribunal Constitucional 2005a). In 2002, Law 27811, the Law Introducing a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources (Congreso de la Republica 2002b) acknowledges that traditional knowledge is the cultural patrimony of indigenous peoples (Article 2b) and establishes that access to and use of traditional knowledge requires the prior and informed consent of the relevant indigenous peoples (Article 2c) and that a license is required for commercial use (Article 2d). In addition, if traditional knowledge is in the public domain, third parties have to share benefits derived from the use of this knowledge with the relevant indigenous peoples (Article 13). However, prior informed consent is not required to access and use traditional knowledge that is in the public domain and the requirement to share benefits only applies for a period of 20 years from its entry into the public domain (Article 13). In addition, the law does not apply yet to the profitable ongoing trade in medicinal plants and therefore prevents indigenous peoples from benefiting (Tobin 2015).

²⁷ UNDRIP Article 31. 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions. 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

The protection of indigenous natural heritage was dealt a serious blow by the US-Peru

Trade Promotion Agreement (TPA), which entered into force in Peru in 2009, and aimed to promote foreign investment. The TPA increased the risk of biopiracy by further deregulating genetically modified organisms and by ignoring the prior informed consent requirements of the 2002 Law Introducing a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources (Greenwood-Sanchez 2011).

Currently, Andean and Amazonian ancestral natural products are under serious threat of biopiracy. Foreign companies have filed over 11,690 patents for the domestic produce of the region. While 4400 species are under threat, the state-run National Commission Against Biopiracy only monitors 35, mainly because of lack of resources, i.e. it consists of only two technicians (Telesur 2016).

4.12. The right to intangible cultural heritage, including language²⁸

The Peruvian Constitution includes two articles that support the right to intangible cultural heritage. Article 2.19 establishes the right to ethnic and cultural identity and Article 89 requires the State to respect the cultural identity of Peasant and Native Communities. The Constitutional Court elaborated on the concept of intangible cultural heritage, identifying it as 1) oral traditions and expressions, including language as a link of intangible cultural heritage, 2) performing arts, 3) social practices, rituals and festive events, 4) knowledge and practices concerning nature and the universe, and 5) traditional craftsmanship (Tribunal Constitucional 2005b).

Article 48 of the Constitution recognizes as official languages Quechua, Aymara and other indigenous languages in the areas where they predominate. Article 2.19 establishes the right to use one's own language before any authority

²⁸ UNDRIP Article 13. 1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. 2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

through an interpreter (Congreso de la Republica 1993). The right of indigenous language speakers to express themselves and interact with the State in their own languages is also explicitly established since July 2011 in the "Language Law" (Law 29735) (Congreso de la Republica 2011b). However, there is still a lack of qualified interpreters for most of the indigenous languages. During the first day of the *Baguazo* trial, there were no interpreters present to make sure the accused Awajún fully understood the charges against them. Even though there were interpreters on the second day, they had problems translating some of the more complicated terminology. In order to tackle this issue and to guarantee this established right, the Ministry of Culture has been training official interpreters and translators (Andrade 2014).

4.13. The right to education²⁹

The main law concerning education for indigenous people in Peru is the Intercultural Bilingual Education Law of 2002 (Law [27818](#)). Article 3 affirmed the right of indigenous peoples to create and control their own educational institutions in coordination with the competent state bodies and according to their own vision, values and knowledge (Congreso de la Republica 2002a). There are, however, no separate indigenous educational systems or institutions in Peru. However, the Intercultural Bilingual Education Law, as well as the Constitution and the General Education Law (Law 28044), encourage the implementation of Intercultural Bilingual Education for indigenous peoples (Congreso de la Republica 2003). Intercultural Bilingual Education incorporates the language as well as the worldview, traditional knowledge and values of the local indigenous people in the classroom (Article 2). Furthermore, the Intercultural Bilingual Education Law (Article 2) guarantees indigenous participation in the administration of Intercultural Bilingual Education as well as in the preparation programs for teachers (Congreso de la Republica 2003).

²⁹ UNDRIP Article 14. 1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. 2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. 3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Indigenous advocates denounce that the effective implementation of Intercultural Bilingual Education is hindered by the lack of appointed teachers trained in Intercultural Bilingual Education who speak and use the indigenous language of the students in the classroom and by the lack of incorporation of traditional knowledge and the indigenous worldview into the curriculum (Pacto de Unidad 2014b). In addition, Intercultural Bilingual Education is still restricted to areas where indigenous make up the majority of students (Article 1) while the General Education Law established the need to implement Intercultural Bilingual Education nationally. AIDSEP furthermore demands that the government respects their right to prior consultation of any policy, plan or educational program for the Amazon and to generalize the Intercultural Bilingual Education policy to all levels of education, and not limit it, as is currently the case, to the kindergarten and primary level (Pacto de Unidad 2014b).

4.14. The right to establish their own media and to be represented in mainstream media³⁰

Article 6 of the above-mentioned Intercultural Bilingual Education Law also reaffirms the right of indigenous peoples to their own means of expression and social communication and the duty of the State to prioritize access for indigenous people to state-owned media as well as to encourage privately owned media to do the same (Congreso de la Republica 2002a). Indigenous people, however, do not only continue to be underrepresented on especially privately owned television and in the printed press but when they are included on television programs, they often appear as stereotypes or they feature in negative news stories on topics such as social protest or poverty.

In addition, indigenous advocates have criticized the lack of political will to facilitate the development of indigenous media. Since one media group, the *Comercio* group, owns the Peruvian media for 80 percent, which constitutes a virtual monopoly, the price for access is too high for community actors to pay. While in neighboring Bolivia, community radio is flourishing, broadcasting

³⁰ UNDRIP Article 16. 1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination. 2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

frequencies are very hard to obtain in Peru since most are held by large companies and the Peruvian government does not have frequencies reserved for community radio as is the case in Bolivia and Ecuador (Westendorp 2016). More recently, online platforms and social media have proven to offer an alternative for indigenous actors to cover their own issues.

4.15. The right to consultation and free, prior and informed consent³¹

In 2011, Congress approved Law 29785 or the Prior Consultation Law in order to comply with ILO Convention 169 (Congreso de la Republica 2011a) and in 2012, the Regulation of the Prior Consultation Law (Legislative Decree N° 001-2012-MC) formulated the rules concerning access to the consultation, the essential characteristics of the consultation process and the formalization of agreements reached as a result of said process (Congreso de la Republica 2012c). This law affirms the right of indigenous peoples to be consulted on legislative or administrative measures that directly affect their collective rights, their physical existence, cultural identity, quality of life or development (Article 2). It also applies to plans, programs and projects of national and regional development that directly affect these rights (Article 2). The implementation of consultation processes referred to in this law is obligatory only for the State (Article 2). The beneficiaries of this right are those indigenous groups whose rights may be affected directly by a legislative or administrative measure (Article 5). They participate in the consultation process through their representative institutions and organizations, chosen according to their traditional customs and practices (Article 6). The agreement reached between the State and indigenous peoples as a result of the consultation process is binding for both parties (Article 15) (Congreso de la Republica 2011a).

The Prior Consultation Law requires consultation processes to be free, prior and informed (Article 4) but unlike Article 19 of UNDRIP, it does not demand the consent of the indigenous representatives (Article 15). State actors are required to aim in good faith for an agreement but if an agreement is not reached after all compulsory steps have been completed, the State is not forced to abandon the

³¹ UNDRIP Article 19. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

proposal. State agencies do however need to take all measures necessary to ensure the collective rights of indigenous peoples and their rights to life, integrity and full development are respected (Article 15) (Congreso de la Republica 2011a).

The state body promoting the measure must carry out the identification of both the indigenous stakeholders and the legislative or administrative measures to be consulted (Article 9). Based on the content of the proposed measure, that state body has to determine the territorial scope and the extent of impact on indigenous people (Congreso de la Republica 2011a). As mentioned before, the identification of indigenous peoples is based on a narrow interpretation, which tends to exclude many communities who qualify as indigenous according to the internationally established objective and subjective characteristics. Indigenous advocates claim that the State wants to minimize the number of long prior consultation processes, especially in the mineral-rich Andean region, out of fear of losing foreign investment in the extractive industries and delaying large-scale projects. As the IWGIA noted in its annual report Indigenous World, “no consultation process has been conducted on the mining activity being developed primarily in the Andean area” (IWGIA 2015: 167).

In February 2018, four Prior Consultation processes were concluded on the national level, i.e. on the Regulations of the Law of Indigenous Languages, on the National Plan of Intercultural Bilingual Education, on the Regulations of the Forestry Law and on the Sectorial Policy of Intercultural Health. Two were concluded on the regional level, while seven others were in different stages of the process. On the local level, 25 processes were at different stages of completion (Ministerio de Cultura 2018).

While indigenous advocates have welcomed the Prior Consultation Law and acknowledge that it constitutes an important step toward the fulfillment of their collective rights, they stress that the law has several weaknesses that hinder the full realization of their internationally recognized rights (Pacto de Unidad 2013). Besides the absence of the requirement of indigenous consent and the restrictive identification of indigenous people to be consulted, one of their major concerns is that the law is not applied retroactively. As such, measures adopted

and projects approved prior to this law remain in effect, even though Peru's obligation of prior consultation entered into force in 1995 when ILO Convention 169 came into effect in Peru (Pacto de Unidad 2013).

4.16. The right to development^{32,33}

Article 2 of the Prior Consultation Law established that indigenous peoples should be consulted on measures that directly affect their right to development as well as plans, programs and projects of national or regional development that directly affect them (Congreso de la Republica 2011a). However, as has been demonstrated above, in practice, the participation of indigenous peoples in the development of policies or programs that may affect them is still deficient.

AIDSESEP has repeatedly denounced the State for continuing to impose its development model on the Amazonian native peoples and therefore not respect their collective right to set their own priorities and strategies for development: "We reject the model for the Amazon, the partitioning of it to large companies for the exploitation of oil mining, palm oil, biofuel, etc. regardless of the thousands of environmental liabilities and without strict environmental and social controls ... We also reject that under the guise of 'conservation', protected areas, regional conservation areas or conservation concessions are imposed on our ancestral lands in favor of bureaucratic interests, economic interest groups or deceiving carbon offset businesses. The current development model deceives us with short-term relief or a 'fight against poverty' that, even though necessary, are temporary and are implemented for political interests" (AIDSESEP 2013). AIDSESEP's members demand to be respected as strategic, economic and social actors to be included in the decision-making on their own development and no longer be dismissed as 'objects of social assistance' (AIDSESEP 2013).

³² UNDRIP Article 20. 1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

³³ UNDRIP Article 23. Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

According to AIDESEP, the Peruvian State has not demonstrated much support for the indigenous alternative development model of *buen vivir* (the good life) or *vida plena* (a full life) that is based on their Amazonian way of life. Their development model emphasizes sustainability and promotes their cultural identity and collective interests, focusing on sustainable agro-forestry, fisheries management, timber and non-timber forest management, bio-industries, community tourism, handicrafts and traditional medicine. Their alternative development models imply economic as well as political self-determination so they can decide and control how they live (AIDESEP 2013).

4.17. The right to health³⁴

The Sectorial Policy for Intercultural Health was the first measure to go through the entire consultation process when it was approved in April 2016. This policy deals with the right to health, social inclusion and equity in health services for indigenous peoples, the promotion of traditional medicine, the participation of indigenous peoples in health services and in the development of policies and programs, capacity-building for health professionals in intercultural health and the appointment of indigenous personnel (MINSA 2016). Gradually, measures are developed and implemented. For instance, in May 2017, the Ministries of Health and of Culture signed an agreement of inter-institutional cooperation that establishes an alliance to implement the intercultural approach in the various prioritized actions in health care, including respecting traditional knowledge concerning health (El Peruano 2017). However, it is still too early to evaluate the impact of this consulted intercultural health policy.

Indigenous representatives have asked to prioritize the appointment of nurses trained in intercultural health who speak the local indigenous language. They believe this is pivotal to ensure accessible and quality healthcare for communities. In addition, they advocate for the appointment of indigenous health coordinators at different levels of health management, improved

³⁴ UNDRIP Article 24. 1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services. 2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

infrastructure, the official recognition of indigenous specialists and community workers as well as for the incorporation of traditional knowledge into school curricula (AIDSEP 2016).

4.18. The right to their traditional lands, territories and resources^{35,36,37,38,39}

Article 89 of the 1993 Constitution established that indigenous communal lands are imprescriptible, except in the case of abandonment (Congreso de la Republica 1993). Imprescriptibility, or “the state of being incapable of prescription”, refers to the right that people have on certain goods, so that these cannot be taken away by prescription or by lapse of time (Oxford Dictionaries 2018). The lands of the Peasant and Native Communities enjoy imprescriptibility, meaning that no one, not even the State, can take those lands or territories. Imprescriptibility guarantees that these communities can remain on their traditional lands, practice their customs and economic activities and as such preserve and promote their culture (Peña Jumba 2015). The 1993

³⁵ UNDRIP Article 25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

³⁶ UNDRIP Article 26. 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

³⁷ UNDRIP Article 27. States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

³⁸ UNDRIP Article 28. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

³⁹ UNDRIP Article 32. 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Constitution, however, was a significant setback for the protection of indigenous lands, since previous constitutions had established that indigenous lands are not only imprescriptible but also inalienable, i.e. that they could not be sold, donated or transferred, and indefeasible, i.e. that they could not be lost, annulled, or overturned (Peña Jumpa 2015).

According to Article 11 of the so-called Land Law (Law 26505) of 1995, which regulates private investment in the development of economic activities on public lands and on the lands of Peasant and Native Communities, the agreement of two-thirds of the General Assembly of a Peasant or Native Community is required to dispose of, encumber, lease or exercise any other act on communal lands (Congreso de la Republica 1995a). This originally applied to all indigenous communities of the coast, Andes and Amazon until Law 26845 excluded the coastal Peasant Communities in 1997 to make it easier to sell or lease their fertile agricultural lands since at the time these were still of larger economic interest than those of the Andes and Amazon (Congreso de la Republica 1995b).

Indigenous advocates consider the Land Law as just another attempt to the parcellization of community lands into individually owned lands, which could then be easier sold to third parties (Due Process of Law Foundation 2011a). This law modifies the organizational structure of communities, converting the associative model based on ancestral links into a production unit in which community members become partners, who each have the right to part of the community property, which they could then sell or rent to third parties if two-thirds of the General Assembly agrees (Congreso de la Republica 1995a). There have been several attempts to eliminate the latter requirement⁴⁰ or to reduce the proportion of community members that has to agree, but the Land Law is still in effect.

For Amazonian peoples specifically, the main legislation regulating the protection of their lands is Law 22175 or the Law of Native Communities. This law established the concept of 'the Native Community' (Article 8), which divided

⁴⁰ A decree by President Alan Garcia eliminating this requirement was one of the reasons for the large protests by indigenous people in 2009, culminating in the confrontation between police and protesters in Bagua.

Amazonian peoples into communities and assigned them the right to ownership (Article 10) over a certain limited portion of their ancestral territory (Congreso de la Republica 1979). While it fragmented indigenous peoples, since each community is officially considered completely independent without any recognized relationship among them, it did guarantee indigenous ownership of almost 12 million hectares in the Amazon region (Garcia and Surralles 2009). Furthermore, Law 22175 provides a number of opportunities for land expansions, i.e. in cases where it can be demonstrated that the current title is not enough, and second titles, i.e. in cases where it can be demonstrated that the first title did not cover the entirety of a Native Community's territory according to the legal description (García Hierro and Surrallés 2009). Law 22175, however, only allows for titling part of what is recognized as indigenous territory (Article 10), other segments, i.e. forest lands, are only given in use (Article 11), and important elements (water bodies, wildlife, subsoil) are excluded from the land titles (Congreso de la Republica 1979).

Furthermore, the land titling process continues to be seriously flawed. Of the 6,069 Peasant Communities and the 1,469 Native Communities that were recognized by the Organism for the Formalization of Informal Property (COFOPRI) 16 percent still do not have their land titles. Between 2006 and 2010, only 19 new titles and 23 land expansions were granted (Pacto de Unidad 2014b). The abundance and disorder of norms governing the titling of lands of Peasant and Native Communities combined with the instability and institutional weakness of the authorities in charge of the process have hampered significant progress in recent years (Defensoria del Pueblo 2014). Since 2008, the regional governments have been in charge of land titles but they lack specialized technical personnel that can carry out the functions of documenting and titling land ownership. In addition, most regional governments do not have employees that know the local indigenous language, which makes the process even less accessible for indigenous communities (Defensoria del Pueblo 2014). Since 2013, the Ministry of Agriculture and Irrigation is the lead agency for the restructuring and formalization of rural land ownership, providing support to the regional governments. Through a program financed by the Inter-American Development Bank, it aims to advance the titling of rural lands, including those of Peasant and Native Communities. However, the program

only plans to formalize a small fraction of those lands of indigenous communities that still require titling (IWGIA 2015).

An additional burden to the recognition of land rights for Peasant and Native Communities is the overlap of rights that often exist on the same territory. Areas that should be recognized as community lands have often already been categorized as Permanent Production Forests, Protected Natural Areas or other legal categories that hinder the recognition of indigenous ownership (Defensoria del Pueblo 2014). Indigenous communities do not receive titles to these parts of their ancestral territory but instead are only granted the right to use them (García Hierro and Surrallés 2009). There have been several cases where the State eventually allowed extractive activities within Protected Natural Areas and therefore it should not come as a surprise that many indigenous perceive the establishment of these protected areas as another way for the State to deceive them, limit their territorial rights and eventually grant the land to extractive companies (Desmet 2016).

Communal reserves are one category of protected natural area, consisting of public lands granted in use to the local communities through management contracts with the State. These contracts allow local communities to carry out economic activities, except timber extraction. There are currently seven communal reserves covering about two million hectares (Peña Jumpa 2015). Most lands within communal reserves have been distributed to indigenous communities through contracts with the Executor of the Administration Agreement, composed of representatives of the beneficiary communities. However, these contracts are often not implemented according to the standards established by law, due to both a lack of capacity and organization of the communities as well as the lack of an appropriate intercultural vision and the imposition of a Western understanding of development. In addition, lands within communal reserves can still be subject to hydrocarbon exploitation (Peña Jumpa 2015).

Even though the Inter-American Court of Human Rights has recognized the right of indigenous peoples to their natural resources in *Awás Tingni vs. Nicaragua* (2001), Article 66 of the Peruvian Constitution determines that all

natural resources, renewable or not renewable, are national patrimony and that the State is sovereign in their use (Aylwin and Tamburini 2015). The State by law sets the conditions of their use and can grant the right of use to individuals (Congreso de la Republica 1993). Water bodies such as lakes and rivers, forests and their resources and the subsoil of community lands are excluded from indigenous ownership and remain state property. Indigenous communities can only be granted the right to use forests and their resources (García Hierro and Surrallés 2009). However, according to Article 2 of the Prior Consultation Law, it is the obligation of the State to consult those indigenous peoples whose collective rights could be directly affected before approving any measure that authorizes the exploration or exploitation of natural resources in those areas where indigenous people are located (Congreso de la Republica 2012d). As previously mentioned when discussing the Prior Consultation law, there are still many flaws and burdens to the effective consultation of indigenous peoples regarding natural resources on their ancestral territories. First of all, the Prior Consultation law does not work retroactively and thus only applies to decisions made after 2011 when the law entered into force, even though it should be applied to all decisions made after 1995 when ILO Convention 169 came into effect in Peru. Secondly, the identification of the indigenous communities that are 'directly affected' is restricted and usually kept to a minimum. Thirdly, the prior consultation process does not require the consent of the indigenous communities, as long as the state institution has attempted in good faith to reach an agreement following the process that was specified in the regulations of the law. However, even with these flaws, it can still be considered as a great improvement.

Indigenous people have not been involved in the development of policies on indigenous land rights even though they have repeatedly identified and made clear what their priorities for collective land rights are. They are advocating for territorial integrity, i.e. the titling and collective ownership of their integral ancestral territories, including natural resources, forests, water bodies, flora and fauna. In addition, they demand the repeal of the Land Law because it encourages parcelization and only grants the use of forestlands. They also strive for inalienable, indefeasible and imprescriptible territories, without individual parceling, and the cancellation of all kinds of concessions (mining, oil

and gas, forestry) granted within the territories of indigenous peoples without consultation or free, prior and informed consent (Pacto de Unidad 2014a).

4.19. The right to the conservation and protection of the environment⁴¹

One of the threats to the indigenous right to their traditional territories is the creation of conservation areas. Article 21 of the Law of Protected Natural Areas (Law 26834) established two categories of protected natural areas, those of indirect use and those of direct use (Congreso de la Republica 1997). The first category is strictly regulated and no extraction of natural resources nor modification or transformation to the environment are permitted. Only scientific research, recreation and tourism are allowed in designated areas. Protected natural areas for indirect use include national parks and national and historic sanctuaries (Article 21). In protected areas for direct use, the exploitation and extraction of certain resources are allowed in specific zones and mainly for the local population. National reserves, communal reserves and regional conservation areas are included in this category (Article 21). While indigenous people support the conservation and protection of the environment, they denounce that many of these protected natural areas have been superimposed on their traditional territories, as such negatively impacting their territorial integrity, and have been established without much coordination with the local communities (Chirif and García Hierro 2007). They claim that because of their extensive knowledge of and deep connection with their traditional lands, they should be in charge of conservation efforts within their own territories.

The State on the other hand claims that indigenous peoples nowadays do not have the means and capacity to manage large areas and protect their environment and biodiversity. Indigenous organizations have contested this and complain that the State has proven itself incapable to prevent illegal resource extraction and punish those responsible. They also allege that the State has facilitated private sector access to protected natural areas including for oil

⁴¹ UNDRIP Article 29. 1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

extraction which puts their environment, traditional lands, livelihoods and health at risk (Chirif and García Hierro 2007).

4.20. The right to administer justice⁴²

The right of indigenous peoples to administer justice according to their customs was first recognized in Peru in Article 149 of the 1993 Constitution and is still in force today. The authorities of the Peasant and Native Communities, with the support of the Peasant Patrols⁴³, may exercise jurisdictional functions within their territory in accordance with customary law, provided they do not violate the human rights of individuals. The Constitution requires coordination between community jurisdiction on the one hand and the Magistrates' Courts and other State judiciary instances on the other hand (Congreso de la Republica 1993). However, the government has yet to develop a law regulating the coordination between community justice and State justice, which has undoubtedly resulted in gaps and loopholes that hinder or prevent the efficient operation of community justice. At the moment, it is not clear which competencies are covered by community jurisdiction and which ones are reserved for the State. The absence of clear rules and the lack of access to State justice for the indigenous population has regularly resulted in the prosecution of indigenous authorities on charges of for instance kidnapping after arresting criminals (Ruiz Molleda 2011b). From the studies conducted so far, it is clear that communities do not apply an alternative system of rules, but rather seek the application of basic legal norms that are fundamentally not adverse to the mainstream legal norms. In many cases, however, the main differences are the sanctions that are applied based on their customs and which in some cases are not considered legitimate in State law (Remy 2014).

⁴² UNDRIP Article 34. Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

⁴³ The Peasant Patrols or *Rondas Campesinas* are legally recognized by Law No. 27908, the Peasant Patrols Law “as an autonomous and democratic community organization that can establish dialogue with the State, support the military in the judicial functions of the rural and indigenous communities, assist in conflict resolution and perform functions of extrajudicial conciliation under the Constitution and the Law.”

4.21. The right to just and fair complaint mechanisms and procedures for the resolution of conflicts⁴⁴

Indigenous communities and individuals can appeal to the Peruvian Ombudsman for complaints involving the non-fulfillment or infringement of an individual or collective right. In the case of a conflict between an indigenous community and the State, the Ombudsman can also intervene and support the indigenous party but it is mainly the Presidency of the Council of Ministers' National Office for Dialogue and Sustainability which is in charge of actively intervening in conflicts and developing and directing a conflict resolution procedure. In addition, indigenous individuals or groupings can also file complaints in the regular judiciary system. Even though these institutions all have policies in place to promote indigenous access, in general, access to justice for indigenous peoples is often obstructed because of several factors, including complex bureaucratic procedures, the lack of access in their native languages and the lack of intercultural competence of civil servants. On the international level, indigenous people can file a petition to the Inter-American Commission on Human Rights who can then refer the case to the Inter-American Court on Human Rights (OAS 2016). Indigenous organizations also have access to the ILO's Committee of Experts to challenge state parties' non-observance of ILO Convention 169 (ILO 1989a).

4.22. Conclusion

It can be concluded that the current policies concerning indigenous people in Peru include most major collective rights, but to a limited and insufficient degree. For instance, the Peruvian Constitution grants Native Communities a certain level of internal autonomy and land rights, but basing these rights on the Native Community construct instead of on indigenous as a people seriously restricts their realization and limits their scope and impact since it does not respect their traditional structure and the indigenous demand for territorial integrity. In addition, it seems that some rights are actually regressing instead of

⁴⁴ UNDRIP Article 40. Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

progressing, illustrated by the leaving out of the inalienable and indefeasible status of community lands in the 1993 Constitution.

While there undoubtedly also have been some significant advances, as for instance the Prior Consultation Law, it seems to be the general rule that a limited or light version of the full collective right as included in UNDRIP is implemented in Peruvian legislation. In the case of the Prior Consultation Law, it does not require free, prior and informed consent and it is not implemented retroactively. Even though Peruvian legislation seems at first sight to do reasonably well on indigenous rights, the limitations mentioned above have a strong enough impact to result in strong rights claims by indigenous people and possibly conflicts with the State.

It can also be concluded that the implementation of these laws on the ground still has many flaws. Conflicting policies and the lack of clear rules, political will, human capacity and financial resources have resulted in laws that have not realized their full potential. In Chapter Five, the perspective of research participants on the implementation of this legal framework on indigenous rights will be discussed.

Chapter Five. Issues affecting the daily lives of the Awajún

In Chapter Four, it was seen how indigenous rights are incorporated to a certain degree in Peruvian legislation and policies. However, it was also clear that the limitations and weaknesses of the legislation and policies are still likely to lead to rights claims by indigenous peoples. It was also shown that these laws have not been adequately implemented on the ground. This chapter will examine the perspective of research participants on whether the policies and laws that do exist are adequately implemented and have a real impact on the daily lives of indigenous people. Both the gaps in current legislation and its deficient implementation determine and shape rights claims and therefore it is necessary to take a closer look at how the implementation is perceived by the actual subjects and beneficiaries of these policies. This chapter will examine the actual impact and implementation of current legislation and policies involving indigenous collective rights and the rights claims of the Awajún people by identifying the main issues affecting their daily lives. First, the Awajún will be briefly introduced.

5.1. The Awajún

Historically living along the banks of the Marañón River in the Peruvian Amazon, the Awajún belong to the Jíbaro ethno-linguistic family, which is one of the largest ethno-linguistic families in the entire Amazon region. According to the Peruvian Ministry of Culture, the Awajún population consists of 83,732 inhabitants living in 281 communities spread over various provinces of five different regions in Peru: Amazonas, Cajamarca, Loreto, San Martín and Ucuyali (Ministerio de Cultura 2016b). The Awajún are traditionally known as a people of strong warriors, especially because they successfully defended their territory from the Incas. They have continued to do their reputation justice by vehemently defending their land, more so than most other indigenous peoples in Peru.

The Awajún: Overview	
Spanish denomination	Aguaruna
Linguistic family	Jíbaro

Location of Awajún communities	In five different regions of northern Peru: Amazonas (76.2%), Cajamarca (3.2%), Loreto (14.9%), San Martín (5.3%) and Ucuyali (0.4%)(INEI 2008)
Awajún population	83.732 (Ministerio de Cultura 2016b)
Ancestral Awajún territory	Around 35.000 km ² (INEI 2008)
Number of registered Awajún Native Communities	222 (Including unregistered: 281)(Ministerio de Cultura 2016b)
Awajún communal reserves	Tunta Nain (2007) ⁴⁵ Chayu Nain (2009) ⁴⁶
Oil lots overlapping with Awajún territory	Lot 116 ⁴⁷
Mining concessions overlapping Awajun ancestral territory	Mining concessions in the Amazonas region along the border with Ecuador south of National Park Ichigkat Muja until the border with Cajamarca owned by private individuals and by various mining companies, including Mining Company Afrodita, Mining Investments Alexander and Mine NDR Peru (INGEMMET 2014)
Major regional Amazonian federations including Awajún local organizations	ORPIAN-P ⁴⁸ CORPI SL ⁴⁹ CODEPISAM ⁵⁰
Grassroots Awajún organizations ⁵¹	- CAH ⁵² , CIAP ⁵³ , FAD ⁵⁴ , FECAS ⁵⁵ , FECONARIM ⁵⁶ , FEMAAM ⁵⁷ , FISH ⁵⁸ ,

⁴⁵ The reserve has a surface of 94,967 hectares and is located within the districts of Río Santiago, El Cenepa and Nieva in the province of Condorcanqui.

⁴⁶ The reserve has a surface of 23,597 hectares and is located in the districts of Imaza and Aramango in the province of Bagua, and in the district of Cajaruro in the province of Utcubamba.

⁴⁷ Lot 116's concession contract was annulled in April 2017 but this court decision is being appealed by the Ministry of Energy and Mining and state company Perupetro)

⁴⁸ Organización Regional de los Pueblos Indígenas de la Amazonía Norte del Perú

⁴⁹ Coordinadora Regional de los Pueblos Indígenas de San Lorenzo

⁵⁰ Consejo de Desarrollo de los Pueblos Indígenas de la región San Martín

⁵¹ This is not a complete list. New grassroots organizations are constantly founded or renamed. Not all of them are registered.

⁵² Consejo Aguaruna Huambisa

⁵³ Consejo Indígena Amazónico del Perú

⁵⁴ Federación Awajún Domingush

⁵⁵ Federación de las Comunidades Awajún de Bajo Santiago

	OCCAAM ⁵⁹ , ODECINAC ⁶⁰ , ODECOAC ⁶¹ , ODECAM ⁶² , ODECOFROC ⁶³ , ODEPAA ⁶⁴ , OPIWAK ⁶⁵ , ORASI ⁶⁶ (Amazonas) - ORFAC ⁶⁷ (Cajamarca) - FERIAAM ⁶⁸ , ODECA ⁶⁹ , OAAM ⁷⁰ (San Martín) - ONAPAA ⁷¹ (Loreto)
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The traditional Awajún settlement was organized around a powerful elder, surrounded by his own family and other families allied by marriage. These settlements were not permanent but instead Awajún families rotated both their homes and fields within a sub-basin to allow the soil to recover while still using the entire area for hunting and gathering. Therefore, their ancestral territories have since the early days always been of paramount importance for the survival of the Awajún and their way of life (ODECOFROC 2010b). However, this dispersed traditional settlement pattern was strongly affected by the establishment of bilingual schools, which created larger communities when families of different groups moved close to the schools and health posts. Their main production activities, both food production and animal breeding, also moved to the areas closer to these communities. However, they continued to use a much more extensive area for hunting wildlife, which resulted in the establishment of hamlets and eventually of new communities. Even though the Awajún population centers became more concentrated, their traditional territory

⁵⁶ Federación de Comunidades Nativas Aguarunas del Río Marañón

⁵⁷ Federación de Mujeres Awajún del Alto Marañón

⁵⁸ Federación de los Pueblos Indígenas de Shawit

⁵⁹ Organización Central de Comunidades Nativas Awajún del Alto Marañón

⁶⁰ Organización para el desarrollo de las Comunidades de Alto Comaina

⁶¹ Organización Indígena de Desarrollo de las Comunidades de Alto Comaina

⁶² Organización de Comunidades Nativas del Alto Marañón

⁶³ Organización Central de Desarrollo de las Comunidades. Fronterizas del Cenepa

⁶⁴ Organización Nativa Awajún de la Provincia Alto Amazonas

⁶⁵ Organización de los Pueblos Indígenas Awajún Wampis de Kanus

⁶⁶ la Organización Regional Aguaruna de San Ignacio

⁶⁷ Organización Regional Fronteriza Awajún de Cajamarca

⁶⁸ Federación Regional Indígena Awajún del Alto Mayo

⁶⁹ Organización de Desarrollo de la Comunidad Awajún de Aramayo

⁷⁰ Organización Awajún del Alto Mayo

⁷¹ Organización Nativa Awajún de la Provincia del Alto Amazonas

beyond the communities with titled land remained essential for their way of life (ODECOFROC 2010b).

The Awajún were able to avoid colonization for much longer than other Amazonian peoples because of a mutual protection pact between the Awajún and the Peruvian Army. The Awajún territory includes the border area with Ecuador, which was disputed until the 1998 peace treaty between Peru and Ecuador. Many Awajún joined the army and fought in the Cenepa War of 1995 against Ecuador (Santos-Granero and Barclay 2011). However, after the peace treaty in which the border between the two countries was demarcated, the cooperation of the Awajún was no longer considered necessary and the Army withdrew its support. This resulted in the opening up of Awajún ancestral territory for mining concessions and colonization by mestizos, constituting a serious threat to the integrity of their ancestral territory as well as their indigenous rights (Santos-Granero and Barclay 2011). The relationship between the Awajún and the State became very contentious and characterized by distrust and conflict, which has remained so until today.

Many of the issues that the Awajún are facing today are a result of changes due to increased contact with outsiders bringing so-called modernization and imposing their concept of development. While the Awajún are known for their strong attachment to their culture and language, these changes to their traditional lifestyle, including selling products instead of solely relying on subsistence farming and hunting, were inevitable because the Awajún now need money to pay for education and healthcare. While they are trying to maintain their distinctness from mainstream society through conserving the essence of their culture and identity, they are also adapting to a changed world in which providing good education for their children and earning a living have become of major importance. Adaptation to this kind of inherent change requires a certain degree of support of the State but this has been lacking. The Awajún feel abandoned and discriminated by the State as even basic services as healthcare and education are of poor quality. In addition, their different views on issues such as land, natural resources and development often lead to clashes with mainstream society.

In order to examine the rights claims of the Awajún, the main issues that currently affect the quality of life of the research participants as individuals and as a community are identified in this chapter. It will be demonstrated that the issues identified by participants as affecting their quality of life are all closely linked to collective rights violations and to the failure of the State to fulfill and protect their basic rights as Peruvian citizens. In addition, participants also acknowledged that the adaptation to a changed world and struggle to find a good balance between this necessary adaptation and the preservation of their culture had an impact on their quality of life.

5.2. Main issues affecting their quality of life

5.2.1. Discrimination and racism

5.2.1.1. Second-Class Citizens

Many respondents believe that "... the presidents of Peru don't take us into account, they see us as a lower class of people, they see us as obstacles... that makes us sad because we're isolated and separated from the State..." 17 of the 35 respondents literally state that they feel they are treated as second-class citizens in Peru, inferior to mestizos, because they are never taken into account when decisions are made, they are never consulted and their voices are not heard.⁷² They feel marginalized because the State "turns their back on us, they have forgotten us, there is practically no such consideration [for us as Awajún people], for the State we do not exist, they think that the forest has no owner, that no one lives here."⁷³ Several respondents point out that they feel that they are only paid attention to when the State or other actors need something from them, for instance during a political campaign or when they are serving in the army. After politicians have been elected or after the Awajún individual has completed his service, they are forgotten and abandoned.⁷⁴

⁷² "Pero nunca nos consulta, de ahí es que nos consideran como de segunda categoría porque tu voz no sirve de nada."

⁷³ "Si nos reconocieran como pueblo sería mejor, pero momento nos dan la espalda, nos tiene olvidado, prácticamente no hay esa consideración, para el Estado no existimos, piensan que el bosque no tiene dueño, que nadie vive"

⁷⁴ "Después que servimos a la patria al Estado no les interesa, así como trata a nuestro pueblo, lo tiene olvidado ... nos tiene abandonado" "Así sentimos los jóvenes, aunque no sean licenciados en el ejército pero al no tener oportunidades sentimos marginados"

5.2.1.2. Discrimination by the State

Many respondents believe that the Awajún as a people are discriminated by the State. In their opinion, mestizos or Spanish speakers always get priority over indigenous persons both on the local and the national level. They especially worry about the lack of support and the inferior quality of services they receive from the State: "Because in the position I have as school director, ... I've been applying to receive state support, but it is not like the Spanish-speakers who get preference or are received with open doors, for us as Awajún, it is difficult to get support ... instead of helping us to succeed, they tell us many good things, they talk about change, they talk about education that will improve, but when we ask for help, we get nothing. We who are indigenous, we are a little discriminated in education, at work, in health, in practically everything."⁷⁵

Respondents have pointed out that they have been feeling particularly discriminated against by the State since the *Baguazo*, for which they have repeatedly been blamed by government actors, the media and mainstream society. They consider the fact that only Awajún leaders stand trial while the political culprits go free as confirmation of this belief.

5.2.1.3. Racism

"They talk a lot that we are equal before the law, but they discriminate us, they call us savages, 'chunchos'⁷⁶, sometimes they insult us and say that we are lazy, sluggish, but that's not true."⁷⁷ Many respondents report that they often experience racism when dealing with mestizos. There are three main categories of racial insults that the respondents frequently hear. First, Amazonian people in

"... pero luego que ya gana el cargo político cambian al y colocan ultimo, eso no es buena manera de trabajar"

⁷⁵ "Porque yo el cargo que tengo como directora, yo he entrado recién, he estado haciendo mi solicitud para que me puedan apoyar, pero no es como a los hispanohablantes que les tienen preferencia o puertas abiertas, para nosotros los Awajún es difícil eso, o sea, el apoyo ... En vez de atendernos nos floread, nos dicen muchas cosas buenas, hablan del cambio, nos hablan de educación que de esa manera puede mejorar, pero cuando le pedimos nada. Nosotros que somos indígenas somos un poco discriminados, tanto en la educación, en el trabajo, en la salud, prácticamente en todo."

⁷⁶ Peruvian word that means 'savage'.

⁷⁷ "Hablan mucho que somos iguales ante la ley, pero igual nos discriminan, nos dicen chunchos, salvajes, algunas veces nos insultan que somos haraganes, vagos, eso no es cierto pues."

general are often stereotyped as 'savages'. Respondents feel that mestizos see them as less human and more as animals, which they can treat as such. As one respondent notes, the media often exacerbates this stereotype in their coverage of conflicts involving indigenous people such as the media coverage of the *Baguazo*, where the Awajún protesters were dehumanized and depicted as violent savages. A second common insult respondents hear, is that the Awajún are lazy and incompetent. Because they focus on small-scale subsistence farming, which in reality is mainly because they do not receive a fair price for their products, they are seen as too lazy to be more productive members of society and undeserving of the large lands that could otherwise benefit national development. Thirdly, as a respondent who often travels adds, Awajún are always looked at as if they are criminals or drug-traffickers just because they are from the jungle.⁷⁸

5.2.2. Assimilation and adaptation to a changing world

As was mentioned in Chapter Three, indigeneity has been marginalized throughout Peruvian history and it was attempted to gradually replace an indigenous identity by characterizations of class or occupation. While this has mainly been the case for Andean peoples, Amazonians as well have been criticized that they are no longer indigenous if they do not maintain a stereotypical traditional way of life and take on certain aspects of modern life, such as Western-style clothes or technology.

However, all living cultures are in constant change and this is also the case for indigenous cultures. Adaptation to change does not affect their indigenous identity or cultural self-determination. As Siegfried Wiessner proclaims: "This regime of cultural self-determination does not bar change or adaptation, even assimilation and integration – as long as such change is voluntary and the inherited traditions have a chance to survive in the hearts and minds of indigenous people" (Wiessner 2011: 122). As was discussed in more detail in Chapter Four, indigenous Peruvians have undergone many assimilation policies and it was not until the end of the 20th century when Peru, following the international trend, moved away from assimilationist and integrationist policies,

⁷⁸ Most of the cocaine in Peru is made in isolated areas of the jungle.

culminating in the establishment of a new multicultural, pluralist model of the Peruvian State in the 1993 Constitution (Fajardo 2002).

However, assimilation in practice has continued because of several reasons, such as discrimination and marginalization as well as socio-economic factors. Depending on their location as well as their resilience to resist assimilation, certain Amazonian peoples have maintained a stronger cultural identity than others. The Awajún are known as a people that have maintained a strong indigenous identity because of their will and determination to survive and bloom as a distinct culture. However, the Awajún are not immune to the risk of assimilation, illustrated by the fact that respondents identified the tension between the need to adapt to this changing world in order to survive as a people while maintaining their culture and distinctness and avoiding assimilation as one of the main current threats to the Awajún.

5.2.2.1. Distinctness

Distinctness from mainstream society is considered by international institutions as one of the main characteristics of indigenous peoples. Their distinct social, economic and political systems as well as their distinct languages, cultures and beliefs and their resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities are all aspects included in the UN's understanding of the term 'indigenous' (UNPFII 2009a).

While most respondents complain that they are discriminated against and treated as second-class Peruvians, they do, however, recognize and celebrate their distinctness from other Peruvians. As one respondent puts it, "we are all humans but we are distinct in our ways as individuals or as collective beings, in this case as indigenous people."⁷⁹ Another respondent agrees: "when we go [to mestizo towns to sell products], we don't visit Spanish speakers, because their customs are different than ours."⁸⁰ One major difference noted by a respondent is that "when you live in the Amazon, in the forest, money is not necessarily the

⁷⁹ "Somos seres humanos pero somos distinto a nuestra manera de ser como seres individuos o como seres colectivos, en este caso los pueblos indígenas."

⁸⁰ "Porque nosotras cuando llegamos allá no vamos a visitar a los hispanohablantes, porque sus costumbres son apartes de ellos, la costumbre de nosotros es otro."

most important thing, it's rather something complementary to money.”⁸¹ The Awajún in particular are known as a proud people with a strong cultural identity: “I dare to say that [the Awajún] have fought, have defended their identity and continue to do so.”⁸²

5.2.2.2. Adaptation to a changing world

Many respondents realize that the world as well as their own have changed significantly, making it impossible to live as their ancestors did a few decades ago. While outsiders label Awajún as primitive people who are not able or willing to adapt to modernity and are against development, respondents recognize the need to adapt to these changed circumstances with the condition of ‘staying true to their Awajún identity’. As one respondent expresses the view of the majority of respondents: “We have always lived according to our own way of life as we have done for millennia: Living in harmony with nature and taking care of everything around us. Now, with changes brought by new lifestyles, globalization and migrants in our territory, our lifestyle has changed a lot. It is not what it has been in the past, so we try to insert this modernity, but we do it without leaving behind our essence. That is what we want you to understand.”⁸³

According to respondents, the change that most impacted their daily lives and prompted the need to adapt is the necessity of money, especially for the education of their children and for healthcare: “Nowadays, it cannot be said that a child should catch fish and live from that. Before it was like that, but not anymore. That time has passed, now it is all about money and study.”⁸⁴ In addition, conditions have changed because there are more people to feed and

⁸¹ “Porque vivir en la Amazonía, en el bosque no necesariamente es eso, es algo complementario el dinero.”

⁸² “En ese caso específico de los Awajún y Wampís me atrevo a decir que ellos han luchado, han defendido su identidad y sigue siendo.”

⁸³ “Nosotros siempre hemos vivido con nuestro propio estilo de vida como hemos hecho por milenios conviviendo en armonía con la naturaleza, cuidando todo lo que está en nuestro alrededor. Ahora, con los cambios que trae los nuevos estilos de vida, globalización, el ingreso de migrantes en nuestro territorio, o sea, nuestro estilo de vida se ha cambiado muchísimo, no es como sería antiguamente, entonces, nosotros tratamos de insertamos a esta modernidad, pero lo hacemos sin dejar nuestra esencia, eso es lo que queremos que entiendan.”

⁸⁴ “Porque ahora es pura plata, este año no se puede decir que este niño mate pescado y que viva con eso no, antes era eso, ahora no, eso ya pasó, ahora es pura plata y el estudio no?”

less of their traditional food resources to feed on, adds another respondent.⁸⁵ Respondents lament that State actors are clinging to out-dated preconceptions and that they remain unaware of the changing reality of the Awajún, who are adapting to modernity with an increasing number of Awajún professionals and an increasing use of technology.⁸⁶

5.2.2.3. Assimilation

However, it is a fine line between adaptation and assimilation and respondents acknowledge that increased contact can also threaten Awajún culture in many ways: "The problems that I've noticed for the Awajún people are that we try to copy what we see on television, or we try to imitate Western culture or in our case the culture of the mestizos ... This cultural invasion that comes from the West is a big challenge."⁸⁷ Several respondents complain that young Awajún are often ashamed of their Awajún identity when they leave their communities because of the discrimination and racism against indigenous people. As a result, they try to be as much as possible like mestizos by wearing the same clothes, copying their customs and refusing to speak Awajún.⁸⁸ Several older respondents express their concern that these youngsters leave their communities to make quick money, which they then spend on non-essential products such as beer. This tendency to choose easy money over more traditional occupations and activities has led some Awajún to lease their lands

⁸⁵ "Hay muchas trayectorias que el pueblo Awajún viene, demasiadamente, como mismo aumento de la población también carece los alimentos del pueblo Awajún, me refiero, el pueblo Awajún su mercado principal es el monte, el río, y a causa del aumento de la población también esos alimentos carecen. Es el gran problema."

⁸⁶ "Tanto los gobiernos centrales de Lima no conocen bien, piensan que esta Amazonas no hay contactos, pero pensando bien en esta Amazonía hay más contactos que hay en internet, celular, todo. Ahorita ya estamos conociendo el sistema, los alumnos ya salen más o menos expertos, llegamos ser abogados, llegamos a ser magísteres en la educación y tantas especialidades que hay, ya conocemos todo lo que es contacto."

⁸⁷ "Los problemas que existen que yo veo para el pueblo Awajún es que, nos hemos o tratamos de copiar de vivir lo que vemos o lo que ven en la televisión, o tratamos de imitar la cultura occidental o en nuestro caso la cultura de los mestizos, tratamos de imitar y para esa transición muchas veces fallamos, no? Además de la educación que es muy bajo, es un gran problema no? Es un reto muy grande, que la invasión cultural mejor dicho que viene del occidente no?, eso nos afecta bastante. Es un gran problema."

⁸⁸ "A veces cuando vienen a la ciudad, a la capital se avergüenzan de sus provenientes de dónde viene. Más que todo lo que se puede hacer ahora es recuperar la dignidad pues no?, bueno, identificarnos de dónde somos, por qué hemos venido y hay mayoría de los jóvenes que salen a la ciudad con la no intención de superar sino con la intención de vestirse mejor porque algunos ya trabajan solamente porque se quieren verse mejor no?"

for long periods of time, and as such endangering the integrity of their entire community.⁸⁹

Even though there are no official assimilation policies anymore and Peru is recognized as a pluricultural State, several respondents feel that in practice the assimilation of the Awajún continues. As one respondent laments, “sometimes they want to impose what is of the coast, what is of the Andes but what we have is very different.”⁹⁰ Respondents identify the threat to their territories and lands as the most common way the State assimilates and endangers Awajún culture since these are essential to their way of life and their survival as a people. One respondent compares the current behaviour of the Peruvian State to that of the *conquistadores* and the Spanish colonizers, i.e. they enter their lands without their permission and appropriate them.⁹¹ Another respondent believes that “[the State] develops laws against us and promotes colonization, so that they will be able to take away our lands ... and does not allow us to develop freely according to our own reality.”⁹² Many respondents think that their culture is slowly but inevitably disappearing.⁹³ One respondent concludes that “this is one way of killing, one way of ending a people.”⁹⁴

5.2.3. Land and natural resources

⁸⁹ “Ahora los jóvenes donde hay platita, cuando ven oro sacan platita todos se van ahí, dejan su chacra quien que haga, hay viene desnutrición, de dónde va a sacar. Antes nuestras madres traían en una canasta papaya, cocona, ashpa, plátano maduro, traían surtido en una canasta, cuando éramos niños lo sacábamos y comíamos, caña de azúcar, papaya, cocona, ahora ni eso tienen, no hay en la chacra... viven por vivir buscando dónde sacar plata nada más. Pero una vez que sacan su platita ni tampoco guardan su dinero, echan por cerveza, lo acaban. Yo le digo, mucho cuidado, ahorita hay platita una vez que terminen todo ese recurso no van a tener nada.”

⁹⁰ “A veces nos quieren aplicar lo que es de la costa, lo que es de la sierra pero nosotros lo que tenemos es muy diferente.”

⁹¹ “De razón pienso que así como los españoles entraron en las tierras de los incas y acabaron con ellos, pienso que el Estado así también hará con nosotros, el Estado actúa ahora como los españoles frente a los Awajún, entra sin permiso en sus tierras y apropia. Como los que gobiernan y administran al Estado son los hijos de los españoles, conquistadores, ahora también actúan como ellos, porque llevan la misma sangre mala pues, que no respeta, le gusta quitar al otro.”

⁹² “Por eso, pensamos que sacan leyes en contra de nosotros y promover la colonización y así para que nos quite nuestras tierras, ... no nos deja libremente desarrollar de acuerdo a nuestras realidades”

⁹³ “Lamentablemente nuestra cultura se está extinguiendo ya que los anteriores presidentes como Alberto Fujimori y Alan García Pérez nos quisieron exterminar y no se han preocupado por protegernos.”

⁹⁴ “Eso es una manera de matar, una manera de acabar a un pueblo.”

The International Workgroup on Indigenous Affairs (IWGIA) emphasizes the importance of land and natural resource rights for all indigenous peoples around the world: “Land and related resource rights are of fundamental importance to indigenous peoples since they constitute the basis of their economic livelihood and are the source of their spiritual, cultural and social identity” (IWGIA 2017). Their collective consciousness and identity are based on the belief that they have been on these lands that they consider as their ancestral heritage since time memorial, which is illustrated in their most sacred stories of their creation. Being separated from these lands then would necessarily mean the end of them as a people (Wiessner 2011).

The dispossession of ancestral lands and territories is one of the major problems faced by indigenous not only in the Americas but also in many African and Asian countries. The main cause of this dispossession is also universal, i.e. a development discourse that considers the indigenous perspective on development and their traditional land use as primitive and counterproductive to the progress goals of modern States (IWGIA 2017). As was discussed in more detail in Chapter Three, some of the many activities that threaten indigenous lands include mining and oil exploitation, large-scale logging, large-scale agricultural projects, large infrastructure projects such as dams or pipelines and the establishment of national parks. In addition, the universal trend to promote individual land ownership, and as a result enabling the privatisation of indigenous lands and potentially even their sale to outsiders, is also a serious threat to the land and resource rights of indigenous peoples globally (IWGIA 2017).

The importance of this inherently indigenous right was also very clear from the respondents’ replies, which draw attention to several serious issues they are facing nowadays because of the violation and non-realization of their land and resource rights. Many of these issues were spontaneously brought up without specifically asking about their land rights. The great majority of respondents cite the State’s lack of respect for their right to their traditional lands and territories as having a devastating impact on their lives. From their answers, it is clear that many feel very strongly about this right, which they describe as the basis of all their rights and even of their existence as a people. As one respondent asserts:

"So that's our big demand mainly because talking about land is talking about life, because, I insist, life depends on the land."⁹⁵

Depending on the respondents' professional or educational background, they worry for a wide range of reasons about the violation of this right. Subsistence farmers are concerned about their livelihood and the fulfilment of their most basic needs: "How will our lives be then once our fields are gone? Where will we sow? What will our children eat?" In some communities, the pressure from the mestizo farmers whose lands surround their communities make it impossible for the Awajún to extend their communal lands for farming, which is a necessity for them since the soil of their current fields is depleted because of intense use.⁹⁶ In addition, the Land Law⁹⁷, which further implemented the general trend to promote individual landownership and privatization, allowed the leasing of lands to non-Awajún farmers for longer terms. This resulted in mestizos also operating on agricultural lands within Awajún communities. These mestizos use the lands very intensely until the soil is completely depleted, which endangers even further the livelihoods of the Awajún and their ability to grow produce to sell.⁹⁸

Several respondents raise the issue of land titles, which has also consistently been identified by indigenous organizations and their supporters as to be prioritized in order to improve land security for indigenous communities. A recent research report by the Common Good Institute claims that of the current 10,529 indigenous communities, 4,023 still lack property titles. The report also indicated that of the titled communities, 72.7 percent have inadequate titles (Instituto del Bien Común 2016). Respondents denounce that many

⁹⁵ "Entonces esa es la gran demanda principalmente porque hablar de las tierras es tocar su propia vida, porque de ello dependen como insisto."

⁹⁶ "Otra gran preocupación, ya hemos terminado todas las chacras con aptitudes agrícolas, de ahí ya no tenemos otro lugar, no hay más espacio, ya los mestizos ya nos han encerrado porque en los alrededores de las tierras comunales toditos han ocupado y nosotros estamos adentro. Eso es lo que yo pienso."

⁹⁷ This law aimed to modify the organizational structure of communities, converting the associative model based on ancestral links into a production unit in which community-members become partners, who each have the right to part of the community property, which they could then sell or rent to third parties, with the condition that two-thirds of the General Assembly agrees.

⁹⁸ "Bueno, otros problemas de nuestra comunidad es que la mayoría de nuestros comuneros han ingresado los migrantes, los hispanohablantes, ellos han tenido que arrendar todas sus chacras, todas sus tierras, ahora nosotros estamos totalmente en crisis de bosque, estamos por qué? Porque ellos toditos han arrendado, y todito las chacras lo tienen los mestizos, los hispanohablantes."

communities still do not have titles of their community lands and that many other communities are still waiting for the amplification of their community lands, but “oil or mining companies ask for a permit to explore and they are given one immediately.” This feeling of injustice and lack of good will is widespread, as the following respondent puts it: “[In Peru], we’ve never seen respect [for our territorial rights], that’s why we’ve always had problems. For instance, in my community we’ve applied in 1995 for recognition of our entire territory where our ancestors lived but the State only gave us 4,900 hectares. We’re appealing this now again with more paperwork. That’s why it can clearly be seen that there’s no respect for these rights.”

Several respondents emphasize that their collective right to land applies to indigenous territories and that therefore the current arrangement of Native Communities does not fulfil their indigenous right: “Our ancestors never lived like this. They lived in a vast jungle, not enclosed. They worked without any problems. They went to the mountains and calmly went looking for animals and fruits, because those were their lands ... Now, the State has us locked up and completely enclosed. So, how can we live this way? Living on a lot of land, like the mestizos, that is not our way of living. Our customs are different. We have never lived in an enclosed space.”⁹⁹ As mentioned in the previous chapter, indigenous people strive for territoriality, which encompasses not only the lands they are occupying but also the forests and water bodies that were part of their ancestors’ territory but which are now state property. The concept of territoriality is of the greatest importance to indigenous Amazonians, which they consider as the foundation of all other collective rights. Their identity is inextricably linked to their territory and they are therefore willing to go to great lengths to have this right realized: “167 years of republican life. Since that year, we are in struggle. Some leaders fought defending the territory. We talk about territory, which encompasses all rights that the population needs.”¹⁰⁰

⁹⁹ “Nuestros ancestros nunca vivieron así, ellos vivían en vasto selva, nadie los cerraba, trabajan sin ningún problema, se iban al monte y tranquilos andaban buscando sus animales, las frutas, porque eran sus tierras ... ahora el Estado nos tiene encerrado, nos encierra totalmente. ... Entonces, cómo vamos a vivir así encerrados como viven los mestizos en sus lotes, sino eso no es nuestro modo de vivir?, nuestra costumbre es otra, nunca hemos crecido viviendo en un espacio encerrado, nosotros hemos crecido en un espacio amplio.”

¹⁰⁰ “167 años de vida republicana. Desde ese año venimos en lucha. Algunos dirigentes lucharon defendiendo el territorio. Hablamos del territorio, ahí abarca todo los derechos lo que población necesita.”

Practically all respondents believe that the government tries to steal Awajún lands. They believe that is why the government is so slow in titling indigenous lands, why it develops laws that gradually weaken the protection of indigenous lands through for instance the promotion of individual ownership of land or parcelization, and why the government encourages mestizos to invade indigenous lands. While an analysis of the current policies, as carried out in the previous chapter, does not indicate that there is a significant cut in indigenous land rights, the greater majority of respondents believe very strongly that the government has been cutting back these rights: "We almost cannot claim [our territorial rights] anymore because they have cut [these rights]. We are thinking how we can demand to return those rights that were cancelled. That is also why we think that they make laws against us and promote colonization to take away our lands. We will never allow this."¹⁰¹ This is mainly because they observe that private companies are easily granted the right to use lands that belong to the Awajún's traditional territory. While respondents are aware of the existence of the Prior Consultation Law, which requires the government to consult indigenous communities on decisions that directly affect them, including those affecting their lands, they are convinced that this law is just hot air: "[the government] never consults us. They come and they can appropriate your lands or your resources. They also establish laws without the people knowing and appropriate your house. Practically, they come and invade you without even asking and you cannot do anything because they have already established laws. That is very sad for us."¹⁰² Respondents also have a strong opinion why the government wants to take their lands: "They assume the presidential posts only to support the big companies and to take the lands from the Awajún. That is their ultimate interest."¹⁰³

¹⁰¹ "Cuando queremos reclamar nuestros derechos territoriales casi no tenemos la misma fuerza porque nos han recortado. Estamos pensando cómo podemos reclamar revertir esos derechos que anularon. Por eso, pensamos que sacan leyes en contra de nosotros y promover la colonización y así para que nos quite nuestras tierras. Eso no vamos a permitir jamás"

¹⁰² "Pero nunca nos consulta. Ellos vienen y te pueden apropiar de tus tierras o tus recursos. También establece leyes sin que el pueblo se entere y se apropia de tu casa no? Prácticamente, te vienen y te invaden sin siquiera preguntarte ahí y no puedes hacer nada porque ya establecen leyes. Eso es muy triste para nosotros."

¹⁰³ "Asumen los cargos presidenciales solo para apoyar a las empresas grandes y quitar sus tierras de los Awajún. Eso es su máximo interés."

It is clear to respondents that the government lets these companies have their way and exploit the natural resources that are within Awajún traditional territory. As discussed in Chapter Four, the Peruvian Constitution has declared all natural resources as national patrimony, which means that the State determines the conditions of their use and can grant the right of use to private parties (Congreso de la Republica 1993). The numbers confirm the strong belief of the respondents that the State readily grants permits to companies to explore and exploit indigenous territories, i.e. about 88 percent of the hydrocarbon concessions in the Amazon currently under exploration or exploitation overlap with lands titled to indigenous communities (UN Special Rapporteur 2014). As one respondent complains: "The State sells the air, lands, water, timber, ... That is why we are not happy but very worried. It wants to take away everything we have: our resources, oil, gold, ... It takes and appropriates everything. Practically the State itself is sold. You can say it is bought by large companies."¹⁰⁴ This seems to be a widespread feeling among respondents.

One of the major problems that worries many respondents is the pollution and contamination caused by extractive activities. Environmental damage to their lands and resources by especially oil spills has repeatedly occurred even though there are now stricter environmental regulations. One of the respondents is concerned that "the State also sells to companies the headwaters of important rivers in order to extract gold. We know very well that this water is for our daily consumption. How then can we consume water if these [water sources] are going to be contaminated?"¹⁰⁵ These activities do not only negatively impact their environment and the natural resources they depend on, but also potentially their health. This is of major concern to many respondents. These fears seem grounded in reality and their personal experience since, for instance in February 2016, there were three oil spills reported along the Northern Peruvian Pipeline. One of these spills along the

¹⁰⁴ "El Estado vende el aire, tierras, agua, maderas, ... Por eso no vivimos alegres, vivimos preocupados. Todo lo que tenemos, nuestros recursos, saca petróleo, oro, todo nos quita y se adueña de todo, prácticamente el Estado mismo está vendido, se puede decir que está comprado por las grandes empresas."

¹⁰⁵ "El Estado también vende a las empresas donde son cabeceras de los ríos importantes para saquen oro, y sabemos muy bien que esas aguas son nuestros consumos diarios, cómo entonces vamos a consumir agua si estos van a ser contaminados?"

Chiriaco River released an estimated 2000 barrels of oil, affecting about 5000 people in eight Awajún communities (Amazon Watch 2016).

Various respondents point out the tragedy that the Awajún have always taken good care of their natural resources and their environment, because their existence depends on it. They only use the forest's resources on a small scale and they work on small agricultural fields, which they give the time to recuperate.¹⁰⁶ Many respondents feel that they have never been recognized for taking care of the forest, and that the State acts as if the Amazon Rainforest has always been empty. While there is a global trend to include indigenous peoples in the conservation of their traditional territories and in some cases even put them in charge, the Peruvian State does not seem to actively promote this. Instead, they have superimposed protected natural areas on the traditional territories of indigenous peoples in the Amazon without much coordination with the local communities (Chirif and García Hierro 2007). The State has defended these policies claiming that indigenous peoples nowadays do not have the capacity to manage and protect these large areas. While they acknowledge they might need technical and financial support, indigenous organizations have pointed out that the State is not doing that great of a job itself, allowing extractive activities causing oil spills in various parts of the Amazon Rainforest (Chirif and García Hierro 2007).

Some respondents stress that they are not necessarily against the use of natural resources but they do complain that they are not consulted nor benefit from their extraction. Instead, they feel that companies or the government just enter and take whatever they want. As one respondent says: "If State actors would respect the rights of indigenous people, they would realize that they should talk to them if they will exploit their resources and give them some money so they also benefit. But we do not hear anything like that. Instead, they only want to take from us and leave our lands, rivers and forests contaminated."¹⁰⁷ While they are often depicted as primitives who are strongly

¹⁰⁶ "Más que todo, el Estado se mete no más, sacan los recursos, sacan maderas, oro, petróleo, los desechos tóxicos que dejan eso contamina nuestro medio ambiente. En cambio, nosotros los Awajún no talamos mucho, no hacemos nuestras chacras a gran extensión. De esa manera nosotros cuidamos nuestros bosques"

¹⁰⁷ "Si respetaran los derechos los indígenas, dirían, mejor hay que dialogar con ellos si van a explotar sus recursos y dejar este dinero para que ellos también se benefician. Pero no

against any form of development, the great majority of respondents seemed in favour of a responsible way of exploiting resources under two important conditions, i.e. that it does not contaminate their lands, forests and water and that the Awajún also benefit. It is the manner in which the State carries out these activities rather than the activities themselves that seems to be the major problem for many respondents. They do not accept that all benefits go to Lima while they are left with the contaminated lands and water.¹⁰⁸

While according to the Prior Consultation Law, consultation processes are to be carried out to ensure that the local people benefit from such activities, indigenous organizations complain that the law has not been sufficiently implemented. According to the Ministry of Culture, 38 consultation processes have been initiated since 2013 on the national, regional or local level (Ministerio de Cultura 2018). Respondents are not satisfied with the current situation mainly because the law is not applied retroactively and as such does not apply to projects that were already approved or in process before the law came into force. In addition, no consultation process has been implemented within the region where the respondents live, contributing to their belief that the government is not implementing this law at all (Ministerio de Cultura 2017b).

The local population, including indigenous communities, is supposed to benefit from any extractive activity through the canon system that was established by the Toledo government at the beginning of the 21st century. According to this system, half of the taxes that extractive companies pay are returned to the local and regional governments in their area of operation. Indigenous communities themselves do not directly receive money from the canon but rely on the local and regional governments to invest it in programs or improvements that benefit them. This does not seem the case at the moment since the major indigenous organizations complain that the compensations and benefits do not reach the

escuchamos eso, solo quieren sacar y sacar y a nosotros nos dejan contaminando nuestras tierras, nuestros ríos, nuestros bosques."

¹⁰⁸ "Pero que ellos sean los primeros beneficiarios y que no se destruyan los recursos y todos los beneficios se vayan para la capital y se pierde en la región, sino que, en este caso el Estado debería de formar un fondo especial del desarrollo para atender de manera directa a la población, entonces, es esta, sobre todo por la protección de los ríos, de las aguas y para no contaminar los recursos y por eso hay esta reacción, más que nada por los procesos cómo viene el Estado tratando de desarrollar algunas actividades."

communities and that therefore the benefit system should be restructured to direct part of the canon directly to indigenous communities (Servindi 2017a).

Many respondents identify violations of their rights to their traditional territory including their natural resources as the main cause of conflict with the State. This will be further discussed in the next chapter when considering the Awajún's relationship with the State.

5.2.4. Education

All respondents have mentioned education as a major issue for the Awajún. While they recognize that education in its current form might not have been part of traditional Awajún culture, they very strongly believe that education is nowadays essential to advance, not just individually but as a people. Education is that important for them that the poor quality of rural education is one of the main reasons why Awajún families have left their communities for the city. As mentioned in Chapter Three, 46 percent of indigenous children and teenagers between 3 and 18 years old are not enrolled in an educational institution (UNPFII 2015). Even though the Ministry of Education has reported that, from 2011 to 2015, students in rural schools advanced 13 percentage points in reading comprehension (from 6 percent to 19 percent) and by 8 percentage points in mathematics (from 4 percent to 12 percent), there is still a great difference with urban areas: 50 percent and 27 percent respectively (Minedu 2016). Respondents identify the lack of well-prepared teachers and of quality educational material, the non-availability of technology that is widely used in the cities such as computers and Internet and the lack of budget for infrastructure as some of the main problems local schools face.

While many of these issues apply to rural schools in general, there are additional issues that the Awajún as an indigenous people are facing. While there is currently an Intercultural Bilingual Education policy, as has been discussed in the previous chapter, many respondents complain that its

implementation is much to be desired. One respondent claims that 80 percent of teachers do not teach in the Awajún language and that materials are exclusively in Spanish, which is for many students not their native language.¹⁰⁹ Several other respondents add that local schools do not promote the Awajún culture, resulting in students not valorising and even being ashamed of their culture and refusing to speak Awajún.¹¹⁰ They assert that both education materials and the content of education plans focus on the reality of mestizos and more specifically of those who formulate these plans in Lima. One respondent points out that the current situation continues to promote the cultural assimilation of Awajún students. Many respondents underline the importance of having Awajún representatives participating in the development of education policies and programs.¹¹¹

It seems there is widespread agreement within the indigenous community on the current state of Intercultural Bilingual Education, since also the leading indigenous organizations believe that, despite the positive efforts made by the Directorate General of Bilingual and Rural Education (DIGEIBIR), there are still structural deficiencies in the implementation of indigenous education policies. The indigenous platform *Pacto de Unidad* agrees with the respondents that the lack of teachers appointed and contracted with training in Intercultural Bilingual Education that speak and use the language of the students in the classroom and the lack of incorporation of traditional knowledge and worldview into the curriculum as well as the very limited participation of indigenous representatives in the development and implementation of education policies are some of the main issues that need to be tackled in order to improve Intercultural Bilingual Education (Pacto de Unidad 2014b).

¹⁰⁹ "Lo más el cien por ciento que debe ser en Awajún lamentablemente no la hacemos, entonces, eso también hay ese gran problema aquí en la comunidad tanto en los profesores también que veo, que no lo enseñan así de lo que puede ser en Awajún bien como ochenta por ciento los profesores no le enseñan a nuestros hijos en lengua Awajún. Ese problema encuentro también aquí en la comunidad."

¹¹⁰ "También inculcarlos sobre sus culturas porque muchas veces conformen van avanzando en la educación no les valoran sus culturas y van avergonzado de sus culturas, olvidan hablar sus lenguas."

¹¹¹ "Ellos avalan todas las cosas que mandan desde allá en la capital y se centran hacer todo posible de acuerdo a su realidad. Eso equivocadamente nosotros no podemos acostumbrarnos a ellos, porque nosotros tenemos otra realidad, eso es lo que el Estado debe estructurar bien los planes de educación para que nosotros también podamos comprender y hacer llegar al pueblo Awajún para que nosotros surjamos también ante ellos."

Nevertheless, the majority of respondents lauded the government for one particular aspect of education, the *Beca 18* scholarship system, which offers high performing high school graduates from poor families a scholarship to study at a private university. However, many respondents claim that there is still much room for improvement, in particular concerning some of the conditions of the scholarship, which are not adapted to an Awajún student's reality. As mentioned above, Awajún children often do not have the opportunity to attend a good primary and secondary school, resulting in lower grades at national exams. Therefore, many students have problems reaching the minimum grades that are required to qualify for *Beca 18*, as also pointed out by several respondents. In addition, as an 18-year-old respondent explains, once they are on the scholarship, they have to maintain a high average or else they will not receive their full scholarship money. The respondent's cousin needed to ask his mother for extra money for his living expenses, which she did not have, resulting in him not having another option than to drop out of university. Moreover, for many of these students, it is hard to live away from their communities and families. Many respondents also indicate that the government does not provide sufficient accessible information on *Beca 18* and that therefore many are not aware of the opportunity or its conditions.

5.2.5. Healthcare

Similar to education, many respondents complain about the inferior quality of healthcare services and their lack of access to quality healthcare in their communities, which they clearly consider as having a major impact on their quality of life. Respondents report that most Awajún communities only have a basic health post and a few of the larger communities a health centre, where only very basic health services are available. For anything more serious, they have to travel all the way to a hospital, which for most communities is hours away. Several respondents point out that many people have died on their way to the hospital. In addition, there is often no medication available in the health posts and patients are forced to buy their own medication in a pharmacy, which is often not located in the same community. Moreover, buying medication is for many Awajún a heavy financial burden.

While there has been some improvement over time, as one older respondent points out, the greater majority of respondents do not feel as if the State supports the Awajún with adequate healthcare services: “Why do they lie to us then? Why do they tell us that the State protects the health of the indigenous? That’s all a lie. They say that they support us with healthcare, but we don’t feel it.”¹¹² Statistics confirm that there is still a considerable gap between rural and urban healthcare. For instance, in 2014, pregnant women living in rural areas were almost 25 percent less likely to be attended by a medical professional (nurse, midwife or doctor) than women in urban areas (Gestión 2016). 51 percent of indigenous communities lack any type of medical facility (Servindi 2016a). There are unfortunately no specific healthcare data available for the Awajún or other Amazonian peoples.

As was the case for education, there are additional issues concerning healthcare that are specific to indigenous people. Several respondents mention that they or someone they know have suffered discrimination when they visited a hospital. As one respondent relates his experience in the hospital in Bagua: “An indigenous person that goes to a hospital becomes an experiment for those persons who call themselves professionals but become experimenters who do what they want with the indigenous patient, ... Imagine me, happy that they attended me [in the hospital] but I quickly changed my mind when I saw the attitude of this doctor who demeaned and mistreated my wife.”¹¹³

Several respondents also lament that the Awajún do not use their traditional medicines to the same extent anymore, mainly because diseases that were brought from outside require modern medication. However, several respondents complain that the government has enforced upon them “the idea that medicine heals better. That is why we stop using our plants, but we see that these mestizo medicines do not cure us well neither.”¹¹⁴ The government

¹¹² “¿Entonces por qué nos mienten, por qué nos dicen que el Estado protege la salud de los indígenas?, todo eso es mentira. Pero dicen que nos apoya con la salud, pero nosotros no sentimos así.”

¹¹³ “El indígena que llega a un hospital se convierte en un experimento, de esas personas que se llaman profesionales pero se convierten en experimentadores, hacen lo que quieren con el paciente indígena, ... Imagínate que yo entusiasmado para que me atiendan pero tuve un gran remordimiento de la actitud de ese médico que quiso subestimar y abusar a mi pareja”

¹¹⁴ “Nos han metido la idea de que la medicina sana mejor por eso dejamos de usar nuestras plantas, pero vemos que estas medicinas de los mestizos no nos cura bien también.”

does not seem to promote the integration of traditional medicines or traditional knowledge into their healthcare services to their indigenous population, which is also a long-time complaint of the major indigenous organizations (Pacto de Unidad 2014b). The new healthcare policy, developed in consultation with indigenous representatives, might change this in the near future.

An additional burden for many Awajún, in particular those that are illiterate or do not speak Spanish well, is the lack of healthcare personnel that knows the Awajún language and culture. Respondents note that this is especially for women a serious obstacle and that it even stops many from seeking medical help: “Many Awajún have difficulty going to the doctor and exposing themselves. It may be because of a lack of command of the Spanish language. For women, it may be that they are embarrassed to do a medical check-up, because they are so self-conscious that they cannot even say what is wrong with them because they are so shy and ashamed.”¹¹⁵ The respondents’ feedback clearly shows that their right to accessible and culturally appropriate healthcare is not realized. Respondents advocate for a stronger participation by the Awajún in drawing up healthcare policies as well as more Awajún healthcare professionals. However, the policy on intercultural health that was approved in April 2016 after a three-year consultation process might bring positive changes. At the moment, it is still too early to evaluate the new policy since it will most likely take a while until the local communities see improvements and benefit from the new policy.

The new policy aims to guarantee the right to health from an intercultural, rights, gender and social inclusion approach for the provision of health services for indigenous peoples. It focuses on promoting traditional medicine and its articulation with conventional medicine, human resources capacity-building in intercultural health and strengthening the cultural identity and participation of indigenous peoples in health services (Peruano 2016).

5.2.6. Economic opportunities

¹¹⁵ “Muchos inias tienen dificultad a la hora de ir al médico y exponer. Puede ser tal vez por problemas de falta de dominio del idioma español, puede ser problemas de pudor en cuanto a las mujeres, a hacer a un chequeo médico, porque las mujeres se cohíben, de tal grado que ni puede decir qué es lo que tiene, porque tienen cierta timidez, vergüenza.”

While the lack of economic opportunities usually does not feature among the specifically indigenous problems, all respondents mention it as one of the main issues impacting their daily lives. It is usually considered as an issue that affects non-indigenous rural inhabitants alike, but several characteristics in the Peruvian context make it more challenging for the indigenous peoples of the Amazon region. Many of the respondents also seem very well aware of these additional obstacles. While traditional Awajún activities were associated with the use of the forest's resources and subsistence agriculture, all respondents acknowledge the importance of money in their current reality: "Before, we were enjoying this paradise of ecology, fauna and flora and the forest, there were almost no urgent needs. But now, we see that nothing can be done without money."¹¹⁶ Respondents realize that they need money for the education of their children and for healthcare. Because handling money was not part of their daily lives until recently, adapting to this vast change without any support has proven to be an additional obstacle for the Awajún and other Amazonian peoples in their integration in the Peruvian economy.

Many respondents complain that there is a great lack of economic opportunities for the Awajún who stay in their communities. Many Awajún families are involved in small-scale agriculture, for instance cacao, bananas, yucca and other typical products of the region. However, respondents comment that many families are not able to make a living from this because of the lack of market access in the area. They often have to travel far with their produce, which is expensive, and are offered low prices by mestizo intermediary merchants. They often encounter discrimination and are deceived because of their lack of experience in trade. In addition to government support in facilitating market access, many respondents also plead for technical assistance and capacity-building for Awajún farmers to make sure they can compete with mestizo farmers. Several respondents mention the collective status of their lands as an additional obstacle to thrive economically because it makes it practically impossible for them to get a bank loan or credit because collective ownership of land is not recognized for loan purposes. Therefore, it is hard for Awajún to

¹¹⁶ "Antes estábamos disfrutando lo que es el paraíso de la ecología, la selva, el bosque, casi nada no había una necesidad inmediata. Pero acá vemos, sino hay dinero, ni no hay plata no se hace nada."

make any investments in their lands or collect capital to start their own business.

5.2.7. Participation and representation

5.2.7.1. Political representation

As mentioned in Chapter One, indigenous peoples are still underrepresented in Peruvian politics. Of the 19 presidential candidates who ran in 2016, only one was indigenous, the economist Miguel Hilario of the Shipibo ethnic group, and one candidate included a comprehensive indigenous agenda in her program, the leftist Verónica Mendoza. It was not until 2011 that there was an indigenous congressman: the Awajún Eduardo Nayap of the Amazonas region. While there has been some improvement with the establishment of a 15 percent quota of indigenous candidates on political party lists for regional and municipal elections, there is no such electoral policy on the national level. As a result, indigenous representation is practically non-existent on the national level. However, the Vice-Ministry of Interculturality is working on a proposal that would require a number of seats in Congress for indigenous people. In neighbouring countries Bolivia and Colombia, indigenous participation is much higher, mainly because universal suffrage was implemented much earlier than in Peru, where until 1979 illiterate persons were excluded from voting, especially affecting the numbers of indigenous voters (Paredes 2015).

This lack of representation is reflected in the answers of the respondents. They do not feel represented by any level of government, i.e. national, regional or local, which they believe are by and for mestizos only. Mestizos help each other and ignore the Awajún (and other indigenous) interests. When campaigning, politicians visit Awajún communities and promise them to defend their rights and represent their interests, but, according to respondents, once they are elected, they forget about the Awajún. Many respondents believe that the State does not want or would even allow an Awajún in a high position: “the State

thinks that the Awajún will just take care of the forest and do nothing else. It is not like that. [The State] should give Awajún professionals the opportunity to take on important positions. They would contribute significantly. But that is not happening.”¹¹⁷ If an Awajún gets elected, they are treated badly, even bullied, and are not allowed to put any ideas forward to help their fellow Awajún, according to several respondents. The first indigenous congressman Eduardo Nayap confirms this, claiming it is difficult to achieve anything important if there is only one indigenous Member of Congress (Paredes 2015).

One respondent proposes that each indigenous people should elect their own representative to Congress without having to compete, unfairly according to him, with mestizo politicians. The proposal mentioned above to reserve a number of seats in Congress for indigenous representatives might be a first step to increase representation on the national level.

5.2.7.2. Participation in the State

Many respondents complain about the lack of Awajún participation in matters that affect them. They claim that the State “does not seek to sit down with the Awajún and other indigenous peoples to talk and look for solutions. Instead, they just come and want to impose. That is what happens in healthcare and in education, even in justice as well.”¹¹⁸ The Vice-Ministry of Interculturality under the Ministry of Culture is the state entity dealing with indigenous affairs and in charge of promoting indigenous participation but, as the main indigenous organizations also affirm, this entity is completely dependent on the decisions of the Executive Branch and has not been able to consolidate itself as the guiding entity in indigenous matters (Pacto de Unidad 2014c).

According to several respondents, when the State does include Awajún in their decision-making processes, they often seek out interlocutors that do not adequately represent the Awajún people and their interests nor are accepted by

¹¹⁷ “Solamente piensa que los awajún vamos a estar cuidando bosque sin hacer nada, no es así pues, más bien, a los profesionales awajún daría oportunidad a que ocupe un cargo importante y ellos aportarían bastante, pero eso no sucede.”

¹¹⁸ “No es que busque sentarse con los Awajún, con los pueblos originarios y conversen y busquen salidas, soluciones, simplemente vienen y te quieren imponer, eso es lo que pasa en la salud y en la educación hasta en el lado de la justicia también.”

them as their representatives. Government officials select those Awajún that they can more easily manipulate and by employing divide-and-conquer tactics, they create divisions among the Awajún. "As a result, we demand that there be direct dialogue and respect for the institutions of the Awajún people and that no islands are created in our area by working with minor organizations and trying to make us fight among ourselves."¹¹⁹ The next chapter will further discuss the relationship between the State and Awajún institutions.

5.2.7.2. Prior consultation

As mentioned in the previous chapter, the Prior Consultation Law was a significant step in the right direction for indigenous collective rights in Peru and most respondents applaud this development. However, respondents have not seen any progress as a result of this law and therefore many have already judged this law as ineffective and just another broken promise. As was discussed above, while there are a few completed consultation processes and several in process, there have been none in the areas where the respondents live. Because the law does not apply retroactively, the projects¹²⁰ impacting the respondents will not be consulted as they were approved before the law came into effect. From their responses, it is clear that they do not see a concrete articulation of the Prior Consultation Law in their daily lives or within their communities and that they have low hopes that it will occur: "A decree came out, a law of consultation, but no one will apply it. For now, we have no confidence that this law will work ... I think that all authorities should take this law of consultation into account and apply it, because until now it is not implemented."¹²¹

¹¹⁹ "Exigimos es haya el diálogo directo y respeto a las instituciones de la población Awajún y que no se creen islotes en nuestra zona cogiendo organizaciones pequeñas y tratando de hacer pelear entre nosotros."

¹²⁰ The major extractive project impacting Awajún is carried out by Mining Company Afrodita in the Cordillera del Condor close to the border with Ecuador. There has been much controversy concerning this project since the beginning, as it is operated on lands that are part of the 's traditional territory. The Awajún had agreed after the peace agreement with Ecuador that these lands became a protected natural area, however, the government later reduced the area of the protected area and gave them in concession to Afrodita. This controversy was also one of the reasons for the protest leading up to the *Baguazo* and one of the main reasons why the Awajún do not trust the government.

¹²¹ "Llegó a salir un decreto, una ley de consulta, pero esa consulta creo que ya es prácticamente es atentativo para los pueblos indígenas. Porque eso nadie va a aplicar. Hasta ahorita no hay confianza. Entonces, eso ya creo que debe haber que todas las autoridades, debe de dar en cuenta cómo se debe aplicar esa ley de consulta, porque eso hasta ahorita no se implementa."

5.2.8. Right to Development

As is clear from the previous sections, the collective right to determine their own development and their way of life is very important to respondents. They feel that the State does not respect this right and even actively opposes it by threatening and contaminating their lands, exploiting their natural resources without their consent, and imposing educational, healthcare and other policies that affect their lives without their consultation or participation or without taking the indigenous reality into account. As was discussed in the section about land rights, the principle of territoriality is essential for indigenous peoples, including the Awajún. However, their development and way of life are currently constrained by the system of Native Communities, which imposes many restrictions and does not allow them to live according to their traditional way of life: "How will we live locked in like mestizos live on their lands? That has never been our way of life. Our customs are different, we have never lived within an enclosed space."¹²²

As one respondent says: "The State does not let us develop freely according to our own reality, nor do we feel that it protects us. In that way, we are well behind." Respondents feel that the State does not support the Awajún's own priorities for their development and progress. As was illustrated in the economic opportunities section, the sustainable use of their resources and small-scale agriculture are essential in many Awajún communities but hardly provide them with a livelihood at the moment. Respondents feel that it is the State's task to help them improve their products, create a market and receive fair prices. Instead, the State encourages extractive activities in their region, which in several cases have polluted their water and lands and as such further affecting their livelihoods that depend on these resources.

Respondents have reason to believe that the State prioritizes large extractive projects over the promotion of small-scale rural development of for instance Awajún communities. It is well known that, during the last few decades,

¹²² "Cómo vamos a vivir así encerrados como viven los mestizos en sus lotes, sino eso no es nuestro modo de vivir?, nuestra costumbre es otra, nunca hemos crecido viviendo en un espacio encerrado,"

Peruvian governments have focused their economic policies on extractive activities and in particular mining. Initiatives concerning the economic inclusion of Awajún, with a focus on technical assistance, product improvement and increased productivity have mainly come from non-governmental organizations or international institutions. For instance, the Inter-American Development Bank's *Tajimat* project applies a local economic development model based on an intercultural intervention with Awajún communities, focusing on market access and strengthening relationships between Awajún producers on the one hand and commercial agents and the local government on the other hand as well as tackling low productivity through training and technical assistance (Inter-American Development Bank 2017).

It is a misconception that the Awajún are anti-development. As mentioned before, respondents realize their world has changed and want to contribute to society and the economy but in their own way: "We can be involved in development. We have the talents. We have capable people and professionals. But they do not give us the opportunity to contribute and make history for our people."¹²³

5.2.9. Lack of complaint mechanisms and criminalization of protest

As respondents point out, indigenous organizations are often labelled as 'radical' for defending indigenous collective rights and their territories. Indigenous protesters are depicted as unreasonable and as violent savages that are breaking the law. Their protests are often met with violent repression, sometimes even resulting in serious injuries or death. The most well known case of criminalization of protest in Peru involving Awajún protesters is of course the *Baguazo*. One of the respondents was under house arrest and not allowed to leave his town for years because he was one of the Awajún leaders involved in the protests that led to the *Baguazo*. He as well as several other respondents consider it unjust that the Awajún protesters were put to trial, while the political leaders and police have faced no consequences whatsoever: "In the case of *Baguazo*, there are leaders that have been persecuted,

¹²³ "Uno pueda involucrarse por desarrollar, porque talentos hay, personas capaces tenemos, profesionales tenemos, sino que no nos dan ese espacio poder contribuir y hacer historia por nuestro pueblo."

psychologically and physically mistreated, ignored, spit on, ... The police feel all powerful while the common people are insulted and practically considered as savages when they want to claim their rights.”¹²⁴

The criminalization of indigenous protest is not limited to Peru but appears to be a phenomenon common in many countries in Latin America with indigenous populations. Hanna, Langdon and Vanclay point out that “reports from several countries have registered frequent acts of criminalization, coercion and violence against protesters in situations where governments and corporate interests conflict with Indigenous peoples' rights” (Hanna *et al* 2016). It is often accompanied by tactics that are aimed to influence public opinion and discredit protest actions, for instance media coverage that exclusively paints protesters as savages or violent troublemakers.

However, respondents believe that protests and disturbing the economy are the only way to get the government's and the mainstream society's attention. There are no effective mechanisms to complain about violated rights, they claim, and therefore they often feel obliged to go on strike or to obstruct a road since it seems the only way the government will listen to them. One respondent claims, “there is no political will to support [our] demands, the demands of the Amazon population. When administrative options are exhausted, when there is no other way, what do they do? What do we do? We protest. We see everything in our region, electricity, infrastructure, developments, districts and roads were obtained through strikes and not by the political will of the State. Only through strikes, sacrifice, thirst.”¹²⁵ While some respondents acknowledge that many Awajún are not aware how to claim their rights or file complaints, which shows the lack of access of existing mechanisms and the lack of effective communication and information by the responsible government entities, they all agree that the only way to have their demands heard is through disrupting the

¹²⁴ “Este caso del baguazo, hay dirigentes que han sido perseguidos, han sido maltratados psicológica y físicamente, ignorados, escupidos, como que los policías sienten poderosos y a la gente humilde cuando quiere reclamar sus derechos es insultado, prácticamente son considerados como salvajes”

¹²⁵ “No tienen voluntad política de apoyar los pedidos, la demandan de la población amazónica. Cuando se agota administrativamente, cuando no hay otra vía, ¿qué es lo que hacen?, ¿qué es lo que hacíamos?. Acatamos paro. Todo lo que vemos en nuestra zona: electrificación, infraestructura, creaciones, distritos, carreteras, estos son conseguidos a través de paros y no por la voluntad política del Estado. Solo a través de paro, con sacrificio, con sed.”

activities or business of the wealthy and powerful. They strongly believe that all victories were attained after long struggles involving the use of various protest tactics that at times even resulted in violence when it seemed the only way to gain the government's attention.

However, this is slowly improving as they can count on an increasing number of Awajún professionals, including lawyers, which has already resulted in a few victories. In March 2017, the Awajún people triumphed against mining company Afroditá when the Regional Government of Amazonas declared the company's application for usufruct by cause of possession on the territory of the Awajún people to be inadmissible (Servindi 2017b). Also in March 2017, two Awajún and Wampis organizations filed a complaint against the Ministry of Energy and Mines and PeruPetro for not carrying out a prior consultation process before granting a contract for the exploration and exploitation of Lot 116. This resulted in the Fourth Constitutional Court of Lima declaring the nullity of the contract and the suspension of activities of two companies in the area (Radio Bomba Peru 2017).

5.2.10. Lack of access to government services

While Peruvians from all walks of life complain about bureaucracy and red tape, the Awajún deal with several more obstacles to access government services. To apply for any kind of support, extensive paperwork has to be filed but, as respondents comment, many Awajún are still illiterate or do not know sufficient Spanish to read or fill out forms. These documents have to be filed in a larger town, which involves not only many hours of travel but also extensive costs. Respondents do not believe the government is facilitating accessibility for the Awajún to their services.

Several respondents also complain that the government does not provide clear and accessible information about its services, for instance on the *Beca 18*. They feel that many of their fellow Awajún do not know about this opportunity and if they do, they are not sufficiently aware of the conditions. This lack of information and transparency negatively affects the Awajún's trust in the government.

5.3. Conclusion

In conclusion, the responses showcase both a wide variety of rights claims and a strong agreement among respondents on which issues affect their quality of life as an individual and as a community. The issues identified are all clearly connected to the denial of certain rights. The rights claims expressed by respondents can be divided into three categories. The first category includes rights claims that deal with collective rights that are specific to indigenous peoples, including their right to their traditional territories and natural resources, their right to determine their own development, their right to be consulted on matters that affect them and their right to their own indigenous institutions and internal self-government. As mentioned before, these rights can all be grouped under the indigenous right to self-determination. In addition, many respondents mention their distinctness as indigenous people from mainstream society as having a strong impact on their daily lives and, while most did not explicitly mention it, their right to preserve their distinct culture and way of life is still threatened by assimilation, even though not as explicitly as a few decades ago.

The second category of rights claims concern general rights that apply to all citizens, both non-indigenous and indigenous, but of which the rights claim is rather of a collective nature and includes specific indigenous aspects. This includes the general rights to education, healthcare, economic opportunities, and participation and representation in the State. Their rights claims concerning education and healthcare focus on their right to a culturally appropriate education or healthcare, incorporating their indigenous culture and language. Their rights claims to economic opportunities focus on those activities that are part of their culture, which can also be seen as an aspect of their right to determine their own development model. While all minorities have the right to participation and representation in the State, their specific status as indigenous people with specific rights sets them apart from other minorities and requires a different level and form of participation than other minorities require. Indigenous people should participate in the decision-making process on matters that affect them, which are different from other minorities, for instance policies concerning lands or resources in the Amazon region. Lastly, respondents have also

expressed rights claims that involve the denial of general rights that is a direct result of certain specific characteristics, mainly their isolated location as an indigenous community. Their main rights claim within this category is the lack of access to government services.

It can be concluded that rights claims range from specifically indigenous to more general rights claims but that these claims are all determined, though to different degrees, by the indigenous identity of the respondents. Since respondents have identified these rights claims as central to their daily lives as individuals and as a community, they are essential in a long-term social change process and should be incorporated in any conflict transformation approach that involves them. In Chapter Seven, the participants suggest themselves what should be prioritized in order to transform their relationship and conflicts with the State. First, Chapter Six will examine how respondents characterize this relationship and what they consider as the main causes of conflict with the State.

Chapter Six. Relationship with the State and conflict

From the previous chapter, it can be seen that the participants' rights claims are directed towards the State. These rights claims evidently impact the relationship between the Awajún and the State but, likewise, the relationship with the State and more specifically the State's past and current treatment of the Awajún has a strong impact on the rights claims. The latter tend to be more strongly pronounced if there is already a strenuous relationship with the State, as is clearly the case for the Awajún as will be shown below. Not only will the rights claims be formulated in stronger terms, the indigenous party will also be less likely to negotiate or settle and conflicts are more likely to arise. Therefore, it is important to have a closer look at the relationship between the two parties, in particular from the perspective of the rights-claimers, before attempting to identify a conflict transformation approach. It should be noted that many of the identified characteristics of this relationship described below are closely connected and that, therefore, there is some overlap.

6.1. History relationship State – Awajún

The Awajún's relationship with the State has been very contentious during the last decade, to say the least. This was, however, not the case until the early 1990s when the Awajún had still an unwritten pact of mutual cooperation with the Peruvian government. Since 1940, the Peruvian army could count on the support of the Awajún in their border conflicts and wars with Ecuador. They provided invaluable logistical support thanks to their familiarity with the area as well as supplied the camps with staples. The pact allowed the Awajún to prevent colonization of their territory for much longer than other Amazonian peoples. After the Cenepa War of 1995 and the peace agreement with Ecuador, the cooperation crumbled and there were appeals to colonize the border area. The Awajún reacted by pushing for the titling of their lands (ODECOFROC 2010b).

This is when what the Awajún organizations refer to as a history of deceit by the government starts. During the peace talks to solve the border dispute with Ecuador, it was proposed to establish a National Park on the *Cordillera del*

Condor along the border. Even though this meant that the Awajún would not be able to register these lands as communal lands, they eventually agreed because they were aware of the growing threat of extractive companies. At least this way the land would be protected. One of their conditions was the awarding and expansion of land titles to Awajún communities so that the protected area would completely border community lands. They also agreed with the government on the boundaries of the Ichigkat Muja National Park (ODECOFROC 2010b).

The first sign that the government was not going to fulfil its promises but instead yield to the pressure from mining companies was the delay in titling community lands bordering the protected area in order to prevent further colonization. Mining Company Afrodita succeeded in convincing various government actors that the best way to protect the border from illegal miners from Ecuador was to allow mining activities, which eventually led to the reversal of the original technical opinion that the *Cordillera del Condor* was not suitable for mining activities, the reduction of the protected area from the agreed 152,875 hectares to 69,829 hectares and the granting of mining permits (Santos-Granero and Barclay 2011).

Of course, the Awajún were very upset with this decision of the government since they had cooperated in good faith and conceded the rights over part of their ancestral territory to establish this National Park (Santos-Granero and Barclay 2011). They perceived this whole process as blatant deceit and it is no wonder that our Awajún respondents are convinced that the State gives priority to the interests of large companies since everything seems to indicate that political ties and corporate mining interests played an important role.

Around the same time, there were several other government decisions that negatively impacted Awajún territory, such as the granting of Oil Lot 116 to a French oil company which overlaps with almost 100 Awajún and Wampis communities and the announcement of the construction of the Rentema Dam, which would also affect the territorial integrity of the Awajún (Santos-Granero and Barclay 2011).

Awajún organizations filed several complaints with various government instances but with no concrete results. They finally called for protests and a strike in 2008 and again in 2009. This was at the same time as the Alan Garcia government issued decrees threatening the protection of indigenous lands as well as the publication of President Alan Garcia's infamous article "*El Síndrome del Perro del Hortelano*" or "The Dog in the Manger Syndrome", accusing the Amazonian peoples of obstructing the country's economic progress, as was explained in Chapter Three when discussing the history of the national development discourse in Peru. All this resulted in a massive support for the protests among Awajún, which eventually ended when the government ordered the police to violently clear the road block at the *Curva del Diablo*, an event that is now known as the *Baguazo* (ODECOFROC 2010a).

The apparent complete disregard of the government for the Awajún's demands and their lives further deepened the distrust and animosity towards the State that remains until today. Even though the majority of the controversial decrees were cancelled after the *Baguazo* and the Prior Consultation Law has since been adopted, the original agreement for the establishment of the Ichigkat Muja National Park has not yet been implemented and Mining Company Afrodita is still operating, which continues to cause conflict in the area. In March 2017, Awajún veterans entered one of Afrodita's mining camps and destroyed their equipment, because, according to them, Afrodita is operating without permits and the regional government has not done anything to stop them (La Republica 2017b).

This chronicle of deceit, as the Awajún have termed their history with the State, continues to shape the attitude of the Awajún towards the State as well as the relationship between the two parties. From the interviews with the respondents, several recurring themes characterizing the Awajún's relationship with the State could be discerned.

6.2. Absence of the State

If there is one statement that all respondents agree on is that the State does not care about or support the Awajún and is mostly absent in Awajún communities

and Awajún lives. Some respondents do acknowledge that the State does offer a certain degree of limited support, in particular with the *Beca 18*, basic healthcare services and public education. However, as discussed in the previous chapter, respondents identify many shortcomings with even the limited support that the State does provide.

While one respondent states that “the State almost attends the needs that we have but not much,”¹²⁶ many other respondents claim that the Awajún have practically never received support from the government, and when they did, the support was not what they needed, poorly implemented or only reluctantly provided after protests or strikes. One respondent, expressing the opinion of many others, thinks that “they only remember the indigenous when they want to invade their lands to take the gold and other materials, like cutting trees. They are only worried about this, but they do not take them into account when they are making social inclusion laws. They never remember them.”¹²⁷

Instead, many believe that the Awajún are rather the ones supporting the State through their natural resources, often taken without consent, which are essential to the national economy, and through voting. One respondent who has travelled and visited many other communities declares that the State does provide certain services to the Awajún, but when talking to fellow Awajún, they tell him that the State has completely abandoned them and has never supported them in anyway. He suggests that the government should examine why the majority of Awajún feel like they are not receiving any support in order to identify how they can improve their services. One of the reasons why they are so unhappy with government programs and support is that these are very poorly implemented with many deficiencies and no regard for the local reality. For instance, one respondent reports that “there are water and sewerage projects but they were poorly installed in indigenous towns. For example, they started a project on water and sewerage here, but do we have drinking water? Are we able to defecate on a nice, well-installed toilet? None of that. In vain, they’ve installed pipes and matrices that do not work. Where do we do our

¹²⁶ “Las necesidades que tenemos casi el Estado atiende pero no mucho.”

¹²⁷ “Solamente se acuerdan de los indígenas cuando quieren invadir sus tierras para conseguir oro y otras materias, como talar árboles, solo se preocupan en eso, pero no los toman en cuenta cuando hacen las leyes de inclusión social, nunca se acuerdan de ellos.”

needs? In the holes that we made ourselves. There is no standard of verification by the comptrollership of the State.”¹²⁸

Respondents say that it has happened too many times that they had high hopes that the State would embrace and support them as equal Peruvian citizens but that they ended up disappointed. As one respondent puts it: “Do you know why we do not put our hopes in the State anymore? Because year after year, we have hoped so much [they would start caring about us] that we’re almost dying of hunger. I do not know if they perhaps support people in other areas of Peru, but in the case of my fellow Awajún, there is no support.”¹²⁹ As can be concluded from the responses from many of the interviewees, it is not just the lack of much needed government support and quality services that saddens them but also the feeling that the State has abandoned them and does not care much about the Awajún. They would like the State to realize that Peru is more than just Lima and that the Awajún are also Peruvians who deserve equal treatment and a better quality of life.

6.3. Distrust

One of the most common words used by respondents to refer to their relationship with the State is *engaño* or deceit. They feel they have been repeatedly deceived by the State and as a result have no confidence in the State or its representatives. Their recent experiences with the State related in the introduction of this chapter indicate that they have reasonable cause to believe this. Respondents sum up a long list of examples of the State’s deceit, most commonly the State’s claim that it aims to protect indigenous lands while the laws that are supposed to protect these lands instead have only led to the invasion of Awajún lands and the theft of their natural resources. Several respondents have already branded the Prior Consultation Law as just another

¹²⁸ “Hay proyectos de agua y desagüe que dicen, mal instalado en los pueblos indígenas. Por ejemplo, acá ha salido un proyectito de agua y desagüe, ¿y cuándo hemos visto de agua potable?, ¿cuándo hemos hecho las necesidades de defecar en una taza bonita, instalada, un servicio bonito?, nada de eso. Por gusto están instaladas las tuberías, los matrices que no funcionan. ¿Dónde hacemos nuestras necesidades?, en los hoyos que hacemos nosotros. O sea, no hay un estándar de verificación sobre la contraloría de parte del Estado.”

¹²⁹ “Sabes por qué no nos esperamos del Estado?, porque son años tras años que hemos esperado de él, más bien, de tanta esperanzarnos del Estado nos está matando de hambre, yo no sé tal vez apoye en otros departamentos del Perú, pero en caso de mis paisanos Awajún no hay.”

deceit and empty promise, because they believe it is not sufficiently nor effectively implemented.

Many respondents are especially sick of politicians making promises while campaigning that they never keep once they are in power. Respondents also believe that when the State does offer them something, it is always in its own interest or because they want something in return. As one respondent explains: "If it is in its own interest, sometimes the State wants to help us. For example, if a regional president or a President of the Republic comes to the community, it is because he is promoting his own agenda. Then they bring gifts here and there. In short, they offer you lots of things such as scholarships, but in reality it is not true. Do they give this so the people can benefit? No, it is always for something in return."¹³⁰

But it is especially the smaller things affecting their daily lives that serve as constant reminders for the locals how the government is always disappointing and deceiving them. One respondent refers to a road that he claims looks like it was made rather for armadillos than for cars and which has already caused many accidents. The general sentiment is explained well by this respondent: "Today, the Awajún do not trust the political authorities or state officials, because we have already experienced bloodshed. So many promises, so many dreams, so many young people who have been promised support, even in our area. Our mayor promised many things. He wanted to become the friend of everyone, but now that he is in power, he acts as if he does not know us, as if he feels annoyed when we want something or ask for support. He just wants to do whatever he wants, that is the reality. The same applies to the Peruvian State with indigenous peoples."¹³¹

¹³⁰ "Por un interés tal vez el Estado nos quiera ayudar, por ejemplo, si un presidente regional o si un presidente de la república llega a la comunidad es porque está haciendo su propaganda para beneficio de él, entonces ahí traen regalos por aquí y por allá en fin, te ofrecen montón de cosas, becas en fin, pero en realidad no es cierto, acaso nos dan para que el pueblo surja? No, es a cambio de algo."

¹³¹ "Actualmente los Awajún no confían en las autoridades políticas ni de funcionarios del Estado, porque ya vivenció, ya derramó sangre, tantos ofrecimientos, tantos sueños, tantos jóvenes que han sido ofrecidos para darles apoyo, inclusive en nuestra zona misma, nuestro alcalde, para ser alcalde compromete muchas cosas, se vuelve amigos de todos, pero una vez asumido el cargo como que no nos conoce, como que se siente fastidiado cuando queremos o solicitamos el apoyo y quiere hacer lo que quiere, entonces esa es la realidad. Igualito sucede el Estado peruano con los pueblos indígenas."

Respondents not only distrust the government, many even express fear of the State. Some respondents are convinced the State has been trying to exterminate the Awajún because they do not easily give up their natural resources and are therefore often considered as obstructing national development. The trauma caused by the *Baguazo* remains fresh in the Awajún's collective memory and some respondents seem truly scared that the government will come after them again. From their responses, it can be noticed that respondents just want a government that is of good faith and that keeps its promises and supports all citizens equally, including the Awajún. Several respondents also indicate that they would have more faith in the government if it would include more Awajún or other indigenous persons, not just mestizos. Several respondents remark that the Awajún are already less likely to be deceived because they are increasingly better prepared and aware of their rights and the laws. However, according to several respondents, more training and capacity-building is still needed to avoid future deceit.

6.4. Lack of respect for the Awajún and their rights

Besides deceit and distrust, the great majority of respondents also identify the State's lack of respect as characteristic of their relationship: a lack of respect for the Awajún as a people with a distinct culture, as an indigenous people with collective rights and as Peruvian citizens but also a lack of respect for their indigenous rights and the laws that claim to protect these rights: "Well, I think that we as Awajún were from the beginning never respected nor were our rights. They discriminate against us. They consider us as lesser people. We have never had the consideration of the State."¹³²

Several respondents cite the State's actions involving Awajún lands and resources as the main proof of this lack of respect: "I think that if the State would respect us, if the Members of Congress would respect indigenous rights, they would say, we will no longer take their lands or their resources. But no, instead of planning how they can support indigenous people, we only hear the Members of Congress saying that there are resources in the jungle that should

¹³² "Bueno, yo opinaría que nosotras nunca fuimos desde inicio respetados nuestros derechos lo que somos Awajún, a nosotros nos discriminan. Nos consideran como si fuéramos unos pequeños pueblos, nunca hemos tenido la consideración del Estado."

be exploited. They talk more about the exploitation of natural resources than the development of the indigenous.”¹³³ Respondents have concluded a long time ago that their government apparently has more respect for companies, even foreign ones, than for their own indigenous citizens, which they see proven by the priority and facilities the government supposedly gives companies concerning resource exploitation and concessions of lands that are part of indigenous ancestral territories. While the Awajún need to wait years, often in vain, to process their land titles, companies seem to receive their permits in record time.

One respondent points out that it is also a sign of this lack of respect that the indigenous peoples of Peru do not have a real institution within the State that deals with indigenous demands. The current arrangement¹³⁴, this respondent claims, seems to consider indigenous issues as restricted to the cultural field, as if they were folklore or archaeological remains.

6.5. Lack of awareness of Awajún reality

In addition to the State’s absence and a lack of trust and respect, respondents identify the State’s lack of knowledge of the reality of the Awajún as a major factor negatively affecting their relationship. They denounce that the government is not familiar with neither their culture and way of life nor the prevalent issues or needs that their people have. Elected officials or government representatives rarely visit the Awajún to learn more about them and understand their needs or to directly discuss their demands with them. Respondents consider this as a clear sign that the State does not care about the Awajún.

According to respondents, because of this lack of knowledge and understanding, the State is not capable to develop programs and policies that

¹³³ “Yo creo que si el Estado respetara, si los congresistas respetara los derechos de los pueblos indígenas, dirían que ya no más topemos sobre sus tierras, sobre sus recursos, pero no, en vez que planteen cómo puede ser el apoyo a los indígenas solo escuchamos de los congresistas que en la selva hay recursos que hay que explotar, hablan más de la explotación de recursos naturales que el desarrollo de los indígenas.”

¹³⁴ The Vice-Ministry of Interculturality deals with indigenous issues within the Ministry of Culture.

target the Awajún: “Every government can say or propose some strategies of work to a community as long as they have seen the real situation ... but without seeing the reality of the people nobody can give an opinion of anything. Often it happens that in the name of development they implement programs but these are not adapted to the reality of the communities. These programs fail or are often not accepted because the people do not know how these programs will be carried out.”¹³⁵ Respondents believe this breach between the Awajún and the State can be solved in the short term if the State “works directly with the community and knows the problems and the needs of the people. That is the fastest way.”¹³⁶ In the long term, in order “to create confidence, the (Awajún) people should elect their own professionals or local people who know their reality”¹³⁷ so they can apply this knowledge when developing programs or policies targeting the Awajún.

6.6. Lack of respect by the State for its own laws

Many respondents agree that “all laws concerning indigenous people are only words, nothing more, only for writing, for putting down and not fulfilling. In Peru, there are more laws than in the United States of America. There are more laws than in Europe, but they do not work. What we call laws are practically useless. It is only for writing and dictating the law. Nothing more. But they are not legally implemented.”¹³⁸ They mention the Prior Consultation Law as well as other laws that are supposed to implement the provisions included in international

¹³⁵ “Todo gobierno puede decir o puede proponer algunas estrategias de trabajo a una comunidad siempre y cuando ellos puedan prevalecer esa comunidad o ver la situación real ... pero sin ver la realidad del pueblo nadie puede opinar de nada. Muchas veces sucede que para un supuesto desarrollo vienen programas de desarrollo pero que no son acorde a la realidad de las comunidades, esos programas fracasan o muchas veces no son aceptados porque el pueblo no sabe cómo va a ser el desarrollo de esos programas.”

¹³⁶ “Trabajar directamente con la comunidad, conocer la problemática de la gente, de las necesidades, eso es lo más rápido.”

¹³⁷ “Para dar confianza el pueblo tenía que elegir a sus profesionales o a sus conocidos del mismo lugar.”

¹³⁸ “Todo ley lo que es del pueblo indígena solamente es por decir nada más, solamente por escribir, por poner y no cumplir. En el Perú hay más leyes que en EE.UU, hay más leyes que en Europa, pero no son trabajadas. Prácticamente eso nosotros llamamos que estas leyes prácticamente no sirven para nada. Solamente es por escribir y dictar la ley nada más. Pero así legalmente no trabajan.”

instruments such as ILO Convention 169. Because of a long history of attempts by governments to restrict indigenous rights, especially those concerning their territories, by developing new laws, many Awajún still distrust new laws. They believe that "... they make laws against us to promote colonization so that they can take our lands, but we will never allow that!"¹³⁹

6.7. Priority to companies

While the Awajún are abandoned and not respected by the State, national and international corporations appear to be receiving the opposite treatment. Respondents believe that corporate interests receive priority over indigenous rights and well-being. They see this corroborated by the fact that they have to go through a long bureaucratic process and often wait many years to receive their land titles while "an oil or mining investor comes, asks for a certain space to explore and it is given to him immediately."¹⁴⁰ Not only are businesses given priority, many respondents are convinced they are actually the ones in power and running the government: "Once [former President Humala] came to power, he was manipulated by businessmen and says everything these businessmen tell him to. If these companies tell him, 'I want to work in that area', he says 'ok' and orders that a nice new law is prepared. The Members of Congress, who are accomplices, agree and elaborate these laws. The President signs and that is it."¹⁴¹ They believe that not only former President Humala, but also all presidents before him only became president to "support the big corporations and take Awajún lands. That is their most important interest."¹⁴² Several respondents indicate that this issue and the resulting frustration is one of the main causes of past, current and future conflicts.

¹³⁹ "Pensamos que sacan leyes en contra de nosotros y promover la colonización y así para que nos quite nuestras tierras, eso no vamos a permitir jamás."

¹⁴⁰ "Viene una inversión petrolera o minera y piden un espacio para explorar y se los dan inmediatamente."

¹⁴¹ "Una vez que ya llegó al poder está manejado por los empresarios y habla todo lo que le dice los empresarios, si esas empresas le dice, sabes?, yo quiero trabajar en esa zona, le dice ya y manda que le preparen una bonita ley y los congresistas cómplices le dicen ya, elaboran leyes y el presidente firma y ya está."

¹⁴² "Solo para apoyar a las empresas grandes, quitar sus tierras de los Awajún, eso es su máximo interés."

6.8. Lack of willingness to cooperate with indigenous instances

Several respondents also complain that the government does not respect the limited autonomy that Native Communities have acquired. The different levels of government show no regard for the Awajún's organizational structure and their institutions, even though the right to this limited autonomy was established in various laws, including in the Native Communities Law. Concerning justice, for instance, Article 89 of the 1993 Constitution established that the authorities of Native Communities "may exercise jurisdictional functions within their territory in accordance with customary law, provided they do not violate the fundamental rights of individuals. The law establishes the forms of coordination of this special jurisdiction with the Magistrates' Courts and other bodies of the judiciary." However, a respondent who used to work as a Justice of the Peace, a liaison person between the Awajún community and the justice system, knows of countless instances in which the local police did not respect the community's already limited jurisdiction: "For instance, we had captured three persons who were assaulting people on the road and had brought them to the community but before we could do the investigation, the police arrived saying that we had to hand them over, that we were not in charge of the investigation. But when the police take criminals to their offices, they ask some questions and then release them. This is for us not the way to do justice. Instead, in the community, we have to investigate well and even tell them to leave this place and to not come back because if they do this again, the community will not give them a second chance."¹⁴³

Most respondents mentioning this lack of respect for indigenous institutions blame it on the government's lack of knowledge and understanding of their importance. Instead of ignoring, the State should support and strengthen these institutions, because they allow the processing and channelling of the people's

¹⁴³ "Nosotros habíamos capturado por ejemplo a tres personas que estaban asaltando en la carretera y habían traído a la comunidad y al mismo tiempo yo tenía que ver también delincuentes como era parte de la justicia y antes que hagamos la investigación posiblemente le comunicaron a la policía y ellos llegan diciendo que teníamos que entregar, que nosotros no estamos encargados a hacer la investigación."

"Pero esto también resulta que si los policías llevan a los delincuentes a su oficina interrogan algunas cositas así y luego los sueltan, para nosotros eso no es la manera de hacer justicia. En cambio en la comunidad, nosotros tenemos que investigar bien hasta inclusive decir que se retire de este lugar y ni que aparezca porque si en la segunda vez hace esas cosas acá no respondemos, entonces eso dice la comunidad."

demands, which can lead to less conflict and a better relationship with the State. One respondent suggests that government officials should receive capacity-building and training in the organizational structure of these communities, their regulations and statutes, their governing system and how they were established. This respondent believes this should be a requirement for any government official to start working with the Awajún. As another respondent concludes: "There will have to be a space for respect, also that every official of the regions where we indigenous people live respects the institutions of these peoples. Because these institutions are entities, they are governments in themselves, governments representing the Awajún people."¹⁴⁴

6.9. The *Baguazo*

Judging from the number of respondents that mention it, many of them repeatedly, the so-called *Baguazo* clearly continues to deeply impact the Awajún's relationship with the State. From the respondents' answers, it is obvious that distrust in the government has remained as strong as it was before the *Baguazo*. Some respondents even feel they are more discriminated against since the *Baguazo*, because the Awajún were scapegoated as responsible for the violence and deaths.

One of the respondents, 49-year-old Simón Wipio Bijúch, was present at the *Curva del Diablo*, where the roadblock was violently cleared, and was in house arrest until the trial. He agrees that a series of deceits by the State led to the *Baguazo*. He recalls that they started the first peaceful Amazonian strike on August 8, 2008 to protest both mining in the *Cordillera del Condor* and the new decrees scaling back indigenous rights over their lands. The Alan García government pledged its commitment to come to an agreement through dialogue and installed a *mesa de dialogo* (a dialogue table), a consultation and conflict resolution instrument commonly used in Peru. The Awajún leadership trusted him and agreed to end their strike. According to Simón, they were so easily

¹⁴⁴ "Ya tendrá que haber un espacio para poder hacer respetar también, que todo funcionario de la región en donde estemos los pueblos indígenas deban respetar la institución de estos pueblos, porque son entidades, son gobiernos en sí, gobiernos que representan al pueblo Awajún."

deceived because the local indigenous representatives were not sufficiently trained in judicial and law subjects. National indigenous organizations became involved and analysed the decrees, of which they found 10 in violation of indigenous rights. They presented their report to Congress and appealed to have this on Congress' agenda to be debated and repealed. But the government took too long and the Awajún and their allies decided to begin a new strike on April 9, 2009 only to put pressure on the government to repeal those 10 decrees. "However, [the government] resisted for a long time, for 55 days. Then the deplorable events happened, what they now call the infamous *Baguazo*."

While these decrees are generally considered as the provocation that led to the confrontation, the underlying causes are some of the same issues that were discussed in this and the previous chapter, including the lack of respect of the State for the Awajún, their lands and their rights and the Awajún's lack of trust in the government. As one respondent puts it: "At the moment, why are there conflicts? For territory! That is the only reason why there is conflict, because for us territory is very important. That is why the *Baguazo* happened. The State wanted to sell all the resources that we have. Our people wants to live free and in peace, they do not want problems. But the State is very much abusing us."¹⁴⁵ The lack of political will to listen to the Awajún's complaints and the criminalization of the protesters by sending heavily armed police to end the protests were what eventually led to the outbreak of violence and the heavy loss on both sides.

Considering the number of respondents who mention the *Baguazo*, it is clear that it is key in understanding the Awajún and their current relationship with the State. While they all lament what occurred, many respondents also notice an upside. Because of the *Baguazo*, the rest of the country knows of the Awajún's existence and their struggle reached well beyond the Peruvian borders because of the international media coverage it received. They are disappointed, however, that, while international media also covered the causes of the conflict

¹⁴⁵ "En la actualidad por qué hay conflictos? Por territorio! Por eso no más hay conflicto, porque para nosotros el territorio es muy importante. Por eso es que pasó el caso Baguazo, porque el Estado quería vender todos los recursos que tenemos. Porque nuestros mún quieren vivir en paz, vivir libres, no quieren problemas, pero aun así el Estado mucho nos está abusando."

and the Awajún's perspective, the national media depicted them as violent savages, focusing solely on the violence.

6.10. Main causes of conflict

All respondents agree that there currently are conflicts between the State and the Awajún. They identify violations of their collective territorial rights as the main cause of conflict with the State, especially of those conflicts that have a high potential to turn violent: "The Awajún people and the State are always in conflict. Why? Because the State does not respect the territorial rights of indigenous peoples. When the State wants to take their lands, they will always fight and defend these lands. This not only applies to the Awajún, but to all the indigenous peoples that live in the Peruvian Amazon. They are all hassled by the State, which takes their lands. To avoid such conflicts, the State should respect their lands. That would end the conflicts. But, instead of letting the indigenous live in peace, they draw up laws to exploit the forest. That is why we do not feel good."¹⁴⁶

In addition to violations of their land rights, respondents also identify violations of their collective rights to their natural resources and to a safe environment as additional causes of conflict. There is a general feeling of frustration and anger towards the government for their preferential treatment of large corporations and in particular the extractive industry, which, in their view, are given parts of their ancestral territory to exploit their natural resources and in the process contaminate their environment and water. One respondent shares how his community is already organizing: "The State also lets companies extract gold close to the headwaters of important rivers. The water of these rivers is for our daily consumption. How then are we going to consume water if it is going to be contaminated? That is why I have travelled to my hometown of Nieva and talked with my relatives about this situation. I have told them what it is we are

¹⁴⁶ "El pueblo Awajún y el Estado siempre están conflictuados. Por qué razón? Porque el Estado no respeta los derechos territoriales de los pueblos indígenas. Cuando hay intención de reducir sus tierras por eso siempre están peleando. No solo sucede con los Awajún, sino con todos los indígenas que existen en la Amazonía peruana, a todos ellos fastidia el Estado, quitar sus tierras. Para evitar esos conflictos, el Estado debería respetar sus tierras. Ahí acabarían los conflictos, en vez de dejar en paz fastidia a los indígenas cuando sacan leyes de explotar a la selva, por eso no nos sentimos bien también."

going to face and what we can do. After the *Baguazo*, we told the government to no longer bother us and our lands and to respect us. But why the State now taunts us again? Our concern is that there may be another confrontation with the State, as they have already killed us before. Maybe they want to continue killing us.”¹⁴⁷

Many respondents are especially upset about the absence of consultation on issues that involve their ancestral lands, resources and in general their quality of life. While some had high hopes when the Prior Consultation law came into force, they now are disillusioned because of the lack of effective implementation. Many have already dismissed it as just another deceit, which will probably just lead to more conflict: “But why do they have to push mining that much? This is also very bad. In the province of Amazonas, this is going to generate another problem because the population is very unhappy. A logging and a mining company want to operate there. Where is this consultation that they talk about so much? There is no consultation. When people start dying, we are told that the Awajún are ignorant people, that we are not educated and that we have no knowledge.”¹⁴⁸ Several respondents make similar predictions: “Now more and more companies are coming and they enter our lands without any consultation, so what will happen there? There will be trouble, just like in the case of the *Baguazo*.”

Also contributing to the occurrence and escalation of conflicts is “the way the State has treated the Awajún people.”¹⁴⁹ According to respondents, this treatment has been characterized by a lack of respect, support and

¹⁴⁷ “El Estado también vende a las empresas donde son cabeceras de los ríos importantes para saquen oro, y sabemos muy bien que esas aguas son nuestros consumos diarios, cómo entonces vamos a consumir agua si estos van a ser contaminados? Por eso viaje a mi tierra natal en Nieva, conversar con mis familiares a respecto, para decirles qué es lo vamos a hacer frente a esta situación, qué es lo que podemos hacer. Nosotros bien claro habíamos planteado al gobierno de turno luego del Baguazo, que ya no nos siga molestando más con nuestras tierras, que nos respete, pero por qué ahora el Estado nos pone en juego nuevamente? La preocupación es que puede ser que haya otro enfrentamiento con el Estado, como ya nos mató, tal vez nos quiera seguir matando.”

¹⁴⁸ “Por qué se apresura con las minas? Esto también está muy mal. Actualmente, en el departamento de Amazonas se va a generar otro problema. La población está muy descontenta. Por ahí quiere operar una empresa maderera, minera, entonces dónde está la consulta que tanto hablan? No hay consulta. Ahora, cuando nacen problema de muerte ahí sí nos califican que los Awajún somos personas ignorantes, que no somos personas instruidas, que no tenemos conocimiento.”

¹⁴⁹ “Yo considero por tanto, ha sido dos cosas más fundamentales, uno, la cuestión territorial y otro por la forma cómo ha dado el tratamiento el Estado hacia el pueblo Awajún.”

discrimination. They are treated as second-class citizens while foreign corporations are given preference. The Awajún's collective memory reminds them as well of the many times they were deceived or disappointed by the State and its representatives.

One respondent says that the only way to avoid future conflict is if the State works more closely together in good faith with the organizations that truly represent the Awajún and establishes more effective means of communication in order to rebuild trust. Of course, this is necessarily accompanied with respect for the indigenous rights to land and resources, starting with the effective implementation of the Prior Consultation Law when the State is considering a policy, program or project that may affect indigenous lands or resources. As several respondents note, the Awajún do not want more conflict or even protests because they are afraid these would lead to another *Baguazo*. They stress, however, that they will defend their lands because "we are natives of the jungle. We have our territory. No one would like to have sold what is theirs. We are Peruvians who were born on these lands. We are not even mixed with Spanish speakers. We are pure blood. We are of ancient descent and for that reason we defend what is our territory."¹⁵⁰ They will also defend their resources because "the human being cannot live without water. I can have millions of dollars but if I do not have water, I cannot live. I cannot throw the money on the ground so it will seep into the soil and become water. That can never happen, no?"¹⁵¹

6.11. Conclusion

It is clear that respondents consider the violation of certain collective rights as the main cause of conflict between the Awajún and the State, confirming the importance of focusing on collective rights claims for tackling and preventing conflicts with the State. In addition, respondents also mentioned the current

¹⁵⁰ "Nosotros somos naturales de la selva, tenemos nuestro territorio, a nadie le gustaría que le vendan lo que son suyos. Nosotros somos peruanos que hemos nacido ahí. No somos siquiera cruzados con los hispanohablantes, somos sangre pura, originarios, nosotros somos de una descendencia milenaria por eso nosotros defendemos lo que es nuestro territorio."

¹⁵¹ "Porque el ser humano sin agua no puede vivir, yo puedo tener millones de dólares pero si no tengo agua no puedo vivir, no voy a tirar el dinero en el suelo para que se filtre y se convierta en agua, eso nunca puede suceder no?"

relationship between the State and the Awajún, i.e. the Awajún's distrust of the State and the State's lack of respect for the Awajún, as contributing to the occurrence and escalation of conflicts. Conflict transformation approaches typically focus strongly on the relationship between parties in conflict. These conclusions appear to indicate that these conflicts are best handled by an approach based on the principles of conflict transformation and a focus on collective rights claims, i.e. a rights-based conflict transformation approach.

The respondents did not only identify the problems and the causes of conflict but they also suggested several concrete solutions that could prevent future conflicts with the State. Chapter Seven will go thematically into their suggestions.

Chapter Seven. How to prevent conflict and improve the relationship between the State and Awajún

In asymmetric conflicts such as those between indigenous peoples and the State, it is essential to ensure that the marginalized party, in this case the indigenous peoples, participates as an equal partner in any conflict transformation process. In Peru, the perspective and input of indigenous peoples are often not sufficiently taken into account or only that of a certain faction that does not properly represent indigenous people. Besides identifying the direct as well as the deeper causes of conflict with the State in Chapter Six, respondents also offer their views and suggestions on how to prevent the outbreak of future *Baguazos*. Their responses confirm the importance of a rights-based conflict transformation approach as most of their proposed solutions are focused on the realization of collective rights claims as well as on improving the relationship with the State. The responses can be categorized under seven different themes, which should all be covered in order to achieve conflict transformation.

7.1. Increased self-government

While most respondents are in favour of a certain degree of self-government, it has to be stressed that none of the respondents is pleading for independence. Instead, some consider self-government as the only way their rights will be respected and their needs fulfilled, since they do not believe the State ever will. Others see increased self-government as the ideal way to improve relations with the State because they believe it would give the Awajún people a stronger position in negotiations with the State, which would lead to less conflicts.

Many respondents agree that the Awajún, as an indigenous people, deserve a higher degree of autonomy because “the Awajún are masters of themselves, of their development, of their life, of what they believe and where they go. We have always been like this. We have always lived independently and have sought the good life, living in harmony with everything that surrounds us.”¹⁵²

¹⁵² “Los Awajún son dueños de sí mismo, de sus políticas de desarrollo, de vida, de lo que creen y hacia dónde van, siempre hemos sido así, siempre hemos vivido independientes, personas que hemos buscado el buen vivir, el convivir en armonía con todo lo que nos rodea.”

They believe that they have the right to live according to their own customs and way of life. Many respondents consider as the way forward to have their own people “who do not necessarily have a PhD, but who know very well the Awajún lifestyle” leading them.”¹⁵³

Several Awajún community leaders launched the idea of an Awajún Nation a few years ago, inspired by their neighbours the Wampis who formed the first territorial autonomous government of Peru in late 2015 as a strategy of territorial defence and a response to external intentions to divide them (La Republica 2015a). The Wampis appointed their own government and developed their Articles of Incorporation, which are strictly based on the obligations of the Peruvian State to respect the rights and autonomy of indigenous peoples and nations. Among other principles, the statute requires that any activity that may affect Wampis territory has the free, prior and informed consent of the Wampis Nation. The Magna Carta of the Wampis Nation also presents their vision of the future, prioritizing the welfare and food sovereignty of the Nation and the promotion of economic alternatives that respect their vision for a healthy and harmonious relationship with nature (Servindi 2015c).

Drawing on their neighbours’ experiences, the Awajún are currently considering the best way forward for them, discussing the priorities and responsibilities of an Awajún Nation as well as their relationship to the Peruvian State. The latter will undoubtedly be complicated, as the experience of the Wampis Nation, which still does not have a legal status, indicates. Besides the lack of political will, one of the major legal obstacles that any indigenous nation would face is that the Peruvian Constitution does not contemplate a type of legal status for territorial governments or any political and legal representation of an indigenous people beyond the Native Community level. However, indigenous advocates point out that there is ample legal basis to allow indigenous peoples to create their own institutions in UNDRIP, ILO Convention 169 and the jurisprudence of the Inter-American Court of Human Rights (Servindi 2016b). Many respondents are aware of the plans for an Awajún Nation and they are unanimously positive

¹⁵³ "Hay personas que no necesariamente tengan su doctorado, pero que conocen muy bien el estilo de vida Awajún.

about this idea, even if a few respondents have a couple of reservations. The reasons why respondents support an Awajún Nation can be divided in two groups: negative reasons, i.e. the bad treatment by the State, and positive reasons, i.e. to strengthen their position, focus on their people's needs and build a stronger relationship with the State.

As discussed in the previous chapter, respondents believe they are treated unfairly by the State and therefore see the establishment of an Awajún Nation as their chance "to not be abused, to not be used as an instrument, to have our rights, our customs and our humanity respected."¹⁵⁴ Respondents believe that the majority of Awajún supports an Awajún Nation "because they want to be respected, they want to be autonomous and organize their own people instead of being run from above. We want to be valued. The State has never valued us. Why do we want to leave? Because we do not have support from the State."¹⁵⁵ The absence of the State and the lack of support for the Awajún undoubtedly seem to be among the main motivations behind the idea of an Awajún Nation. As this same female respondent further explains by means of an analogy: "Would a woman leave a husband that takes good care of her? No, never. We will never separate from a man that takes good care of us, but from someone that mistreats us, we should separate in order to have a better life."¹⁵⁶

Other respondents are excited about the great potential that an Awajún Nation has: "So that there may be a close relationship with the State or with the central government. As a government of the Awajún, they can coordinate with them and thus fulfil all those needs that there may be in Native Communities."¹⁵⁷ They strongly believe that with the creation of an Awajún Nation, the Awajún would have hope in the future again, feel proud and respected and finally be the rightful owners of their ancestral territory. It is, however, highly unlikely that the

¹⁵⁴ "Para no ser abusado, para no ser utilizado como cualquier instrumento, respetar nuestro derecho, respetar nuestra costumbre y respetar nuestra humanidad."

¹⁵⁵ "Porque quieren ganar el respeto, porque ellos quieren ser autónomos y manejar a su gente. Que nos valoren. El Estado nunca nos ha valorado. Para poder tener el poder, para poder manejar su gente. Por qué nos queremos salir? Porque no tenemos apoyo del Estado."

¹⁵⁶ "¿Acaso una mujer va a dejar a su esposo que la cuida bien?, no, jamás. Un hombre que nos cuida bien jamás vamos a separarnos, más bien, personas que nos maltratan hay que separarnos para poder vivir mejor."

¹⁵⁷ "Para que así puedan haber una relación estrecha con el Estado o con el gobierno central. Como gobierno del Awajún que ellos puedan coordinar con ellos conjuntamente y así puedan abastecer todas esas necesidades que pueda haber en las comunidades nativas."

State will grant the Awajún land titles of their entire ancestral territory because there are now non-Awajún settlements within this territory as well. The lands that are uninhabited, mainly forestlands, will most likely remain public but there could be an increased management function for the Awajún if they can come to an agreement with the government. However, just like the Wampis established their nation as a strategy of territorial defence, the fact that all Awajún communities would be united within an Awajún Nation could positively impact their ability to successfully defend their territory, as they would have a stronger negotiation position.

Respondents have, however, a few suggestions and conditions for those that will lead the Awajún Nation. They will have to work hard to succeed and not let themselves be tempted by financial or other corruption. In addition, it is important that Awajún professionals from various backgrounds as well as young people are involved instead of the older generation that has been leading the existing Awajún organizations for decades. They see it as a major issue that leaders of Awajún and other indigenous organizations hang on to power and that, if they lose their leadership position within one organization, they start their own, parallel organization. Many respondents express their concern that this will happen again with the Awajún Nation's government.

7.2. True dialogue with and respect by the State

In conflict transformation, relationships play a central role and improving them through sustained dialogue is considered one of the fundamental means of constructive change. As John Paul Lederach asserts, dialogue is important to exchange ideas, find common definitions, and move toward solutions but through dialogue, social structures can also be changed to be more responsive and just (Lederach 2003). Respondents also identify the establishment of true dialogue between the State and Awajún representatives as paramount for the improvement of their relationship and as such the prevention of potentially violent conflicts. They add that a meaningful sustained dialogue can only occur if the State respects the Awajún, their institutions and their culture. As mentioned above, some respondents believe establishing an Awajún Nation would lead to this increased respect and dialogue with the State.

For now, however, increased coordination between the State and the representatives and leaders of the Awajún and their Native Communities is suggested as the first step towards an improved relationship. Several respondents propose the establishment of an official dialogue space where both parties come to an agreement that benefits both parties before a decision is made. In this institutionalized dialogue space, the representatives or community leaders should also share the specific needs and defend the priorities of their communities ensuring that the State develops programs, projects and policies that can bring about progress and that respect their way of life and culture. “That would be a good start and would also prevent more conflicts,” one respondent believes. Many other respondents share the opinion that the State should coordinate and sit together with the representatives of the Awajún and the leaders of the communities, but one respondent warns that it should be made sure that these representatives are selected by the Awajún themselves and truly represent the interests of the Awajún as a people and not just a compliant minority. Both dialogue partners should be equal parties and the State should respect the perspective and opinions of the Awajún, instead of imposing its own ideas.

From all recommendations, this is the one most likely to be implemented by the State. However, it is likely that some state representatives would argue that there are already plenty of dialogue instruments, most notably the dialogue tables organized for the Prior Consultation processes and that such an institutionalized dialogue space as suggested above is therefore not necessary. However, these dialogue tables are organized ad hoc and are therefore not permanent, as research participants requested. In addition, these dialogue spaces are currently not reaching their objective to transform conflicts. This could be because they are not properly implemented to create a true dialogue space as equal partners or because they do not require the consent of the indigenous partner in order to reach a decision, implying that they are not equal partners at all. Respondents refer here to the creation of an official and permanent dialogue mechanism between indigenous peoples and the State instead of these temporary ad hoc consultation processes. In the current political climate with the dominance of the national development discourse, it

seems unlikely that the State would allow indigenous representatives to be truly equal partners with equal decision-making power in a dialogue space, unless there is strong pressure through advocacy by indigenous organizations, international institutions and, ideally, also by the private sector, who could also be involved in these dialogue spaces for certain subjects. The latter might seem unlikely but not impossible, since a better relationship with indigenous people and as such less conflicts and a better investment climate are also to their benefit.

Besides the establishment of an official dialogue space, many respondents add that the State should also work more closely and directly with the Awajún and actively learn more about their daily reality in order to offer better services adapted to the local reality and needs: "It would also be important for the State or government to visit the communities, to see how we are doing, what needs we have and how we tackle our problems. Then, analysing this all, they can design development projects according to our needs. That work still needs to be done. It has never been done, but it is important."¹⁵⁸ Respondents want government officials to leave their bubble in Lima and not just take decisions that may affect the Awajún from their Lima offices, but instead to get to know the local reality and the people by visiting them in their communities. This is a measure that the State could easily implement with potentially a large benefit for its image and reputation among indigenous people, which may ultimately lead to a better relationship and as such fewer conflicts. It is essential, though, that the State does not send low-level employees of local or regional governments, but instead representatives who are involved in the decision-making processes in Lima. They should be accompanied on their visits by interpreters belonging to the specific indigenous people that they visit to ensure accessibility and culturally appropriate behavior.

Mutual respect between parties is a basic requirement for a meaningful and long-term dialogue. From the previous chapter, it is clear that respondents strongly believe that the State does not respect them. Therefore, it is essential

¹⁵⁸ "También sería importante que el Estado o el gobierno visite a las comunidades, para que nos vea cómo estamos, qué necesidad tenemos, cómo afrontamos nuestros problemas, entonces, analizando eso puede hacer proyectos de desarrollo de acuerdo a nuestras necesidades. Ese trabaja falta hacer, eso nunca han hecho, pero es importante."

that the State addresses these demands for respect in order for dialogue to effectively lead to conflict transformation. Respondents demand respect as Peruvian citizens and as Awajún as well as respect for their collective rights. “The State should go and review those documents that mention all the rights of the Awajún people and then start respecting the laws and attending our people. That is what I would say.” In particular, respondents refer to ILO Convention 169, the Peruvian Constitution and the Prior Consultation Law. Respondents also ask respect for their own laws and institutions, i.e. currently the authorities of the Native Communities, as they believe is not the case at the moment. Instead of considering these institutions as obstacles and ignoring them as much as possible, they should take their great potential for improving their relationship with indigenous people into account and encourage and support them “because these institutions will be able to channel and guide their demands.”¹⁵⁹ The government will need to respect and work with these institutions if dialogue and conflict transformation is to succeed: “There will have to be a way to enforce that every government official of a region where indigenous peoples are respects the institutions of these peoples, because they are governments in themselves who represent the Awajún people.”¹⁶⁰ Implementing capacity-building or awareness-raising initiatives for all government officials and employees of state institutions dealing with issues that may affect indigenous people would be a great first step.

7.3. Increased participation and representation

In addition to, not instead of, increased self-government, respondents also identify increased Awajún representation and participation in the different levels and institutions of the State as a key requirement for improving their relationship and avoiding future conflict with the State. They feel that their own priorities and their basic needs are not met and the ideal way to ensure this is to be involved in the entire policy-making and decision-making process. Indigenous participation is a key indigenous right recognized in international instruments

¹⁵⁹ “Porque van a poder ellos canalizar, orientar a su población para que haya claridad en sus demandas.”

¹⁶⁰ “Ya tendrá que haber un espacio para poder hacer respetar también, que todo funcionario de la región en donde estemos los pueblos indígenas deban respetar la institución de estos pueblos, porque son entidades, son gobiernos en sí, gobiernos que representan al pueblo Awajún.”

including UNDRIP and ILO Convention 169. As mentioned above, respondents want a permanent and institutionalized dialogue space between the State and the Awajún where the latter can share their specific needs and priorities and also propose projects, programs or policies on an ongoing basis instead of just in case of conflict. Many respondents still believe that the proper implementation of prior consultation in good faith, which is not the case at the moment, could be an important instrument to improve their participation in the decision-making process, even though it is not the perfect arrangement.

In addition to a bilateral cooperation, many respondents express the need for the Awajún to play a role within government agencies and institutions as well. They believe that the participation of qualified Awajún in these agencies and institutions will ensure culturally appropriate programs and projects that address the needs and priorities of the Awajún, since they are directly familiar with their reality. As one respondent puts it: "I always say that we need to be in the State, that is, our professional countrymen should be occupying positions in all sectors of the State and raise issues to the President of the Republic. Such work has never been done, If that happens I would applaud the State. But as we do not see that happen, we only feel sadness. If our countrymen were in those positions, it would help the State to understand what an indigenous people is."¹⁶¹ In particular concerning education, several respondents call for increased Awajún participation: "If we talk about the education department, their specialists are not Awajún, but mestizos. Do they know perhaps how we educate our children? Do they know our culture?"¹⁶² With an increasing number of indigenous professionals, state institutions can no longer claim that they cannot find capable indigenous personnel. It should be ensured that each state institution has a certain number of indigenous employees, and not just in low-level positions. If this does not occur without pressure, quotas should be applied. However, besides their qualifications, it is important that applicants' are

¹⁶¹ "Por eso siempre digo que nos falta bastante estar en el Estado, es decir, nuestros paisanos profesionales deberían estar ocupando en algún sector del Estado, hablar desde ahí, plantear al presidente de la república, esos trabajos hasta ahora nunca se ha hecho, si hubiera este tipo de trabajo yo aplaudiría al Estado, como no vemos eso solamente sentimos una tristeza. Si nuestros paisanos estuvieran en esos puestos les ayudaría al Estado entender qué cosa es un pueblo indígena."

¹⁶² "Eso sería importante que el Estado dé esa oportunidad a los indígenas, por ejemplo, si hablamos de la educación, hay especialistas que no son Awajún, son mestizos, acaso ellos conocen cómo formamos nosotros a nuestros hijos? Acaso ellos conocen cómo es nuestra cultura?"

not just of indigenous ethnicity but are actually aware of indigenous issues and are still active members of their people.

Not only do respondents want Awajún professionals working in the existing State institutions, they are demanding a separate institution that deals with indigenous issues, similar to a Ministry of Indigenous Affairs. They believe that "if we want to be treated as human beings with rights we need an entity with a proper name, with well-defined budgets, and which takes on the representation of these peoples. So that they can articulate their proposals better and can channel their demands in the different sectors and thus strengthen their work."¹⁶³ For several respondents, it is especially important that it is a separate entity, not an office or a department within an existing ministry, as is now the case with the Vice-Ministry of Interculturality within the Ministry of Culture. According to respondents, the current organization reduces indigenous issues to the cultural realm. They demand "that they are not seen as a folkloristic, culturalist issue for which only a secretariat has to be created as if we were archaeological remains, that I think is a lack of respect."¹⁶⁴ One respondent even believes that the establishment of a Ministry of Indigenous Affairs "practically solves all the demands and conflicts and the strikes will stop."¹⁶⁵

Canada has such an indigenous ministry, Indigenous and Northern Affairs Canada (INAC), which focuses on social well-being and economic prosperity, healthier, more sustainable communities and increased participation in Canada's political, social and economic development (INAC 2017). In Latin America, Chile is in the process of creating a Ministry of Indigenous Peoples, a National Council of Peoples and separate councils for each indigenous people. The bills were drafted based on consultations with the nine indigenous peoples of Chile. Once the bills have been approved, Chile will have an adequate institutional framework to deal transversally with the issues of the indigenous

¹⁶³ "Si queremos tratarnos como seres humanos con derechos necesitamos que haya una entidad con nombre propio, puede ser que sea un secretaría técnica pero presupuestos bien definidos, que puedan participar mayor parte la representación de estos pueblos. Entonces, para que puedan articular mejor sus propuestas y puedan canalizar sus demandas en los distintos sectores y así afianzar el trabajo."

¹⁶⁴ "Que no sean visto como una situación folclorista, culturalista que solamente hay que crearle una secretaría como si fuéramos cualquier resto arqueológico, eso creo que es una falta de respeto."

¹⁶⁵ "Prácticamente se soluciona total de las demandas y de los conflictos, de los paros que terminan, eso era mi única final. "

peoples of their country with the capacity to create public policies that are appropriate to their realities and needs (Gobierno de Chile 2016). Chile's example should motivate the Peruvian State to strive for a similar indigenous institutional framework in consultation with its indigenous peoples. In Peru, indigenous affairs has belonged to many different ministries, including the Ministry of Development, the Ministry of Public Health, Labour and Social Provision, the Ministry of Justice and Work, the Ministry of Agriculture, the Ministry of Labour and Social Promotion, the Ministry for the Promotion of Women and Human Development and, since 2010, the Ministry of Culture (Abanto Cabanillas 2011). However, there have been several arrangements as well where indigenous affairs were dealt with by a separate institution, most recently between 2005 and 2007 by the National Institute of the Development of Andean and Amazonian peoples and Afro-Peruvians (INDEPA). However, none of these arrangements were at the level of a ministry and in many cases they were overwhelmingly run by non-indigenous officials (Abanto Cabanillas 2011). However, the constant change in arrangements, including separate institutions, seems to suggest that a ministry specifically and exclusively dealing with indigenous affairs is not out of the question if indigenous organizations increase their focus of advocacy efforts towards this goal.

7.4. State support according to indigenous priorities

As discussed in the previous chapter, respondents complain that the State is absent or at least does not offer them the right kind of support by taking into account what they really need. With increased participation and representation as suggested above, it should be easier for the State to develop and adapt their services according to the Awajún's needs and priorities. From the responses, it is very clear what kind of support and services the Awajún expect from their government as a minimum: education, healthcare and assistance with their local economy.

A quality education for their children is the absolute priority of all Awajún families. It is often the reason why they move away from their native lands to a city, since the education that is offered in rural areas is of inferior quality.

Respondents ask the government to improve school infrastructure and facilities and ensure the quality of teaching in Intercultural Bilingual Education. They applaud the *Beca 18* program, but would like to see some improvements to increase accessibility for Awajún students. While the State provides basic health services in Awajún areas, respondents note that the offered services are very basic and of very poor quality, especially because of the lack of material and medication and the lack of trained personnel and infrastructure. In addition, many Awajún have to travel far in case of more complicated health issues. According to them, the government should make the improvement of an accessible intercultural and quality healthcare for Awajún a priority. As mentioned in Chapter Five, a new intercultural health policy, consulted with indigenous representatives, was approved but it is still too early to consider its impact.

Respondents also consider of the utmost importance that the State supports the Awajún in growing its local economy. As was discussed in Chapter Five, the majority of Awajún lived from subsistence farming until recently and have little experience with economic activities. Nowadays, subsistence farming is not sufficient anymore because money is needed for services such as healthcare and education. With the need for money comes the need for money generating activities and, because of a lack of other opportunities, many have opted for the activity they know best, agriculture. However, as respondents have repeatedly noted, the Awajún face many burdens because of their lack of experience in economic and commercial activities, their lack of access to the markets and their lack of technical knowledge to improve their crops in order to compete with other farmers. According to respondents, the State should prioritize "providing facilities and technical assistance to producers, enabling access to the market, capacity-building on associativity and on how to develop economic activities, productive activities in a sustainable manner taking care of the environment. The Awajún have always been able to balance our natural resources, but this new reality requires some assistance so that they can increase their productive capacity and have some economic sustainability in order to strengthen their culture, their identity, and contribute to the development of the country."¹⁶⁶

¹⁶⁶ "Se requiere pues dar facilidades, asistencia técnica a los productores, capacitarla por ejemplo para acceso al mercado, capacitarlos para que entiendan qué es la asociatividad,

In addition, the government should ensure that Awajún have access to loans so they can invest in starting, expanding or improving their commercial activities, which now is not the case since communal lands do not count as their property. One respondent believes that the State should adopt an economic strategy specifically for indigenous people that takes their reality and indigenous collective character into account without decreasing collective ownership or parcelling their communal lands. This is not just an issue for the Awajún, but indigenous peoples all over the world are facing the problem that they cannot apply for a loan on the basis of their interest in a collectively owned area of land, because they do not bear sole responsibility and accountability for that land. The Western system, which is currently prevailing in many developing countries such as Peru, is not adapted to the indigenous reality and therefore disconnects them from the national and world economy and in many cases continues their impoverishment (Lea 2008).

For education and health, this mainly involves the proper and effective implementation of already existing policies and programs, including the allocation of sufficient funds, and therefore does not require far-reaching changes. Because of the State's constant focus on economic development, it should not be hard for indigenous representatives to convince the State to support initiatives aimed at improving the local economy. It is rather a matter of ensuring that its support is focused on the priorities mentioned above. More participation and inclusion of Awajún (and other indigenous) professionals in state institutions dealing with economic issues should be able to ensure this.

7.5. A strong focus on natural resources and land rights

The violation of the indigenous right to their traditional territories and natural resources is identified in the previous chapters as both one of the main issues that is negatively affecting their quality of life as a people and as one of the main causes of conflict with the State. Respondents have identified some of the

cómo se desarrolla las actividades económicas, las actividades productivas de manera sostenible cuidando el medio ambiente. Siempre el Awajún ha tenido la experiencia de poder equilibrar sus recursos naturales, pero requiere esta nueva etapa de brindar cierta asistencia para que ellos puedan potencializar su capacidad productiva y tener alguna sostenibilidad económica para poder fortalecer su cultura, su identidad, y aportar para el desarrollo del país."

actions the State should prioritize in order to improve the realization of collective natural resources and land rights and as such reduce the likelihood of future conflict with the Awajún.

Awajún demands regarding resource and land rights are focused on the concept of territoriality, which was discussed in Chapter Five. The recuperation of their ancestral territory including natural resources would allow them to truly live as an indigenous people with continuous lands instead of Awajún 'islands' as is now the case with the current construct of the Native Community. It would allow them to defend and protect their lands and facilitate the realization of other collective rights. While some respondents demand that the Awajún's traditional territory is returned straightaway, others believe that the best and most effective way forward is reaching their end goal of territoriality step by step. As mentioned in Chapter Five, there are many Native Communities who have not yet received their land titles and many more who are still seeking the extension of their current land titles. The titling of the lands of Native Communities is the Awajún's most basic demand, the completion of which is absolutely essential to improve the relationship with the State, according to respondents. In addition, respondents consider the proper implementation of the Prior Consultation Law as an absolute minimum, where they are consulted from the early stages on any project, program or policy that could affect their lands and resources. Respondents and indigenous advocates do demand the inclusion of the requirement of consent by the indigenous parties to the consultation processes before a decision is approved.

However, the final goal for many respondents remains territorial integrity. Many respondents even predict that this would be the end of all conflicts with the State. This would require a comprehensive territorial demarcation law that legally determines the borders of the Awajún territory as well as the reestablishment of the inalienable, imprescriptible and indefeasible status of indigenous lands. One respondent adds that it also entails that the Awajún "be given the necessary facilities and guarantees in the titling of their lands so that they can also participate in any process of economic, social, political or any other kind of development while legally securing their territory." This reaffirms that territoriality necessarily includes indigenous ownership over the natural

resources within the territory. The Awajún should be allowed to exploit these responsibly to advance their development and at the very least should their free, prior and informed consent be required if the State or third parties want to exploit these resources.

There is no best practice of territorial integrity in Latin America yet but Colombia, Bolivia and Ecuador come closest. The Colombian *resguardos* for instance were defined by Decree 2164 as a legal and socio-political institution of a special nature, consisting of one or more indigenous communities who possess their territory through a title of communal property. *Resguardos* also self-govern and organize their internal affairs through an autonomous organization that is protected by indigenous jurisdiction and their own normative system (Ministerio de Agricultura de Colombia 1995). The Colombian Constitution also mentions the creation of Indigenous Territorial Entities, larger autonomous units of adjacent *resguardos*, but there is still no legislation to put this into practice (González 2015). In Ecuador, indigenous authorities may exercise a number of autonomous functions within Indigenous Territorial Circumscriptions (ITC) according to the 1998 Constitution. These functions include the administration of justice and the formulation and execution of economic development plans. However, as in the case of the Colombian *resguardos*, enabling legislation has yet to be formulated (González 2015). The Latin American country most advanced in indigenous territorial integrity is undoubtedly Bolivia. Article 30 of the Bolivian Constitution (2009) recognizes the right of indigenous peoples to self-determination and territoriality. The two central principles of the *Autonomías Indígenas Originarias Campesinas* (AIOCs) are ancestral territory and self-government, according to Article 282 of the Constitution. Importantly, contrary to Peru, indigenous autonomy is not limited to the community level, but the AIOCs can associate and form larger territorial units (González 2015).

It is extremely unlikely that the State would agree to the immediate return of the integral ancestral territory of the Awajún. As some respondents assert, it is more effective to work towards the end goal of territoriality step by step, starting with adequate land titles for all Native Communities and an increased and improved implementation of the existing Prior Consultation Law. These

demands are relatively easy to achieve, since the State has already agreed to these measures and it is just a matter of improving their implementation. Subsequently, indigenous advocates can strive towards the addition of free, prior and informed consent to prior consultation processes, which will likely be a long-term process since currently, there does not seem much political to do so. However, there have been presidential candidates in the past who (claimed to) put indigenous rights high on their agenda and it is not unthinkable that such a candidate eventually comes to power or that his or her party gains power in Congress. Territorial integrity and in particular indigenous ownership over the natural resources within that territory seem very far away in the current political climate but a certain degree of territorial integrity, e.g. increased self-determination within their ancestral territory including a territorial Awajún government who is included in all decision-making concerning the territory and natural resources, is not entirely out of the question if the political leadership and development discourse change considerably. However, since there are many non-indigenous communities within indigenous ancestral territories nowadays, full territorial integrity seems very unlikely and even impossible in practice. The likelihood that the State would completely give up its ownership of the valuable natural resources within these immense territories is also inconceivable.

7.6. Respect and support for their development model

Many respondents emphasize that the Awajún are not against development or progress. They too strive for development and progress, but not necessarily in the Western interpretation. Instead, they have their own perspective and model of development, i.e. a sustainable form of development with respect for their environment and their cultural values. Instead of imposing the Western view of development on them, the State should encourage and support the Awajún's own model of development. As several respondents point out, money did not play a role in traditional Awajún society until more recently and it has never been a goal in itself for Awajún. Instead, it is something complementary, i.e. it is a means to an end, for instance to pay for education or healthcare. As mentioned before, indigenous Amazonians strive for their development model of *Buen Vivir*, living in harmony with everything that surrounds them: "The whole

nature is part of it. It is not as in the Western world that separates the individual from nature and its resources. In the case of the Awajún, their worldview is holistic and, therefore, development plans should be holistic as well.”¹⁶⁷ Another respondent expands on the main characteristics of this development model: “We are currently talking about economic development with identity, people developing culturally and economically. We cannot try to replace our culture and who we are because we suddenly want access to the market and to money. Coexisting with our world, we still follow our way of socializing and speak our own language. We communicate in our language and plan development in our language. That cannot be dismissed with the fallacy of claiming that only with one language, Spanish, we are going to develop Peru.”¹⁶⁸ In other words, the Awajún should refrain from copying the Western view of development but instead should stay true to their culture and worldview and aim to implement their own form of development. The State should support them in achieving this.

Some respondents do not rule out allowing private investment development projects, including extractive activities, within their territory as long as “the State will implement in good faith [consultation] processes that will seriously take into account the demands of the people, who should also participate within these processes and propose ideas”¹⁶⁹ and as long as the Awajún are one of the main beneficiaries and these activities do not cause irreparable damage to their environment or contaminate their resources. However, other respondents are more adamant to avoid any type of extractive activity, especially those involving gas or oil extraction, within their territory and instead encourage more State support for sustainable economic activities such as the organic farming of cacao, coffee or other forest products.

¹⁶⁷ “La naturaleza toda es parte de ello, no es como en el mundo occidental que se separa una parte lo que es el individuo y la naturaleza, de los recursos, en el caso Awajún es integral, por lo tanto siempre se trabaja mediante planes de desarrollo de manera holística.”

¹⁶⁸ “Nosotros estamos hablando en la actualidad el desarrollo económico con identidad, el pueblo que se desarrolle, culturalmente se desarrolle económicamente. No podemos reemplazar porque queremos de repente acceder al mercado, acceder a la moneda tratar de reemplazar lo que nosotros somos. El pueblo Awajún convive con su mundo, siguen todavía su forma de relacionarse socialmente y hablan el idioma perfectamente, se comunican todos en su idioma, planifican el desarrollo con su idioma y eso no se le puede atropellar con la falacia de decir que solamente con un solo lenguaje hablando el castellano vamos a desarrollar el Perú.”

¹⁶⁹ “Si el Estado implementara procesos confiables que realmente va a tomar seriamente la demanda de la población, el pueblo también puede ser partícipe en estos procesos y propositivo en esos procesos...”

7.7. A united and organized Awajún people

Many respondents realize that, in order to improve their quality of life, achieve their rights claims and avoid future conflict, the Awajún as a people have to come together and organize. As they note, there are still many internal conflicts that divide their community and prevent them from being an equal party with a stronger voice when dealing with the State. Respondents concur that unity and better organization are essential for the Awajún to reach their goals. "First, the Awajún people must be united if they want to progress. We must support each other without selfishness or envy. Defend our rights. We must also choose our representatives well."¹⁷⁰ Various respondents express the need for a good and strong leadership but not with those who have been hanging on to power for decades and who started their own Awajún organization when they were forced to leave their leadership position, thus only contributing to division among the Awajún. As one respondent complains: "We are simply acting as children. So what will the State say [if we want to negotiate with them]: You know what? You agree among yourselves first and then come and talk to us."¹⁷¹

Respondents call for a strong leadership that can unite the Awajún: "A leadership that appeals to everyone and that calls everyone to sit and analyse, to think and decide together which destiny we will pursue, taking into account what we have and what we do not have. Then get organized well. I think that is the obvious thing. Then, after organizing well, defining things well, we can start talking with different instances but already with fairly defined demands, because otherwise everyone is improvising. That does not help at all."¹⁷² Respondents believe that an Awajún people that is united and organized would have a much stronger position when negotiating with the State, and that it would be much

¹⁷⁰ "Primero, el pueblo Awajún debe estar unido si quieren progresar. Debemos apoyarnos unos a otros sin egoísmo, ni envidias. Defender nuestros derechos. Debemos elegir también bien a nuestros representantes."

¹⁷¹ "Simplemente, estamos actuando como niños, entonces qué van a decir, el Estado que nos va a decir, ¿saben qué? Ustedes no se ponen de acuerdo, pónganse de acuerdo y búsquennos."

¹⁷² "Un liderazgo que llame a todos, que convoque a todos a sentar a analizar, a pensar y decidir qué destino tomamos, teniendo en cuenta de lo que tenemos y de lo que no tenemos. Tenemos muchas cosas, pero también hemos perdido muchas cosas. Entonces organizarse bien. Yo creo que eso es lo natural. Luego, después de organizarse bien, definir bien las cosas se dialoga con diferentes instancias pero ya con temas bastante definidos, porque de lo contrario cada quien está actuando con improvisación. Eso no ayuda para nada."

harder to deceive them since they would be better prepared and led by capable Awajún professionals.

In addition, various respondents remark that the Awajún should also work on strengthening their cultural identity: "First, it is the obligation of the indigenous people themselves not to be ashamed of their culture and to teach other people about their culture, art, their beliefs and their food every time they go to different places."¹⁷³ Awajún parents should teach their children to value their culture and teach them the Awajún language. A stronger cultural identity results in more self-confidence for the individual Awajún as well as a stronger sense of community and unity among the Awajún as a people. The State can promote this through not only implementing Intercultural Bilingual Education for the Awajún but by also including material about the Awajún and other Amazonian cultures in the curriculum of all Peruvians. This will boost the pride of Awajún children in their own culture and decrease marginalization since they will feel more included in the Peruvian State. Respondents were relatively satisfied with the State's policies on their cultural rights and promotion of indigenous languages, which the State could use as an opportunity to build further trust.

"We need to be able to identify ourselves and then contribute and not see failure and not be second-class in life or imitators, but be ourselves and make our own achievements."¹⁷⁴

7.8. Conclusion

By identifying which changes and initiatives would contribute to the transformation of conflicts between the State and the Awajún, respondents have also determined their main collective rights claims that as a minimum should be addressed in a conflict transformation approach including increased self-government, respect for their land and resource rights and their right to determine their own development model. They also demand respect as an

¹⁷³ "En primer lugar es la obligación de los mismos indígenas no avergonzarse de su cultura y cada vez que vayan a distintos lugares enseñar acerca de su cultura a otras personas de sus buenas cosas que tiene su cultura, el arte, sus creencias, sus comidas."

¹⁷⁴ "Eso nos hace falta también para poder identificarnos y después contribuir y no ver el fracaso y no ser segundones en la vida ni imitadores, sino ser nosotros mismos y hacer nuestros logros."

indigenous people from the State and institutionalized mechanisms allowing them to become equal partners in the decision-making process on matters that affect them.

Even though there seems to be a tension between these appeals for dialogue and a focus on collective rights claims on the one hand and the claim of respondents that protest and civil disobedience have been the only effective means of achieving change on the other hand, respondents also make it clear that they hope that protest and civil disobedience will one day no longer be necessary but that instead they could claim their rights, seek redress for violations and be heard by the State through sustainable dialogue and other institutionalised mechanisms.

In addition, respondents have even suggested some practical initiatives that the State can carry out to address these claims. These suggestions are significant because they come from the respondents themselves and it is essential for any conflict transformation approach involving indigenous people that the latter are not only actively participating from the start but also determine the course of the process, since one of their grievances leading to conflicts in the first place is their exclusion from decision-making processes that affect their lives. Taking their priorities into account, i.e. their main rights claims, empowering and respecting them as an equal party in the decision-making process, and being respected as such by the State, are the necessary first steps leading to successful conflict transformation.

Chapter 8: Conclusions

This dissertation examined how conflicts between the indigenous Awajún and the State can be transformed by analyzing the Awajún's main rights claims, their perspective on their relationship with the Peruvian State including the main causes of conflict and their views on what the key aspects of conflict transformation with the State should be. Findings illustrate that a rights-based conflict transformation approach, which applies the typical aspects of a rights-based approach focusing on the specific collective rights claims identified by indigenous representatives themselves as well as the main principles of conflict transformation offers the best prospects of preventing future violent confrontations such as the infamous *Baguazo* of 2009.

The research methodology employed for this study was described in Chapter Two, with special attention to the researcher's positionality and ethical concerns, which are of paramount importance in a study on indigenous issues by an outsider researcher. It was explained how a decolonized approach was applied by focusing on the indigenous perspective, selecting moderately unstructured one-on-one interviews as the research method that allows the greatest input by respondents and by collaborating with an Awajún researcher.

Chapter Three had a closer look at Peru's historical and political context focusing on the fate of its indigenous peoples, concluding that current rights claims originated in and were shaped by a context of marginalization of indigeneity, the imposition of a development perspective that did not stroke with their culture and values and a seemingly unending cycle of conflicts with the Peruvian State.

The intensity of these rights claims combined with growing international pressure encouraged the Peruvian State to incorporate indigenous rights in their legislation and policies to a certain degree. Chapter Four examined these current policies on indigenous rights by considering to which extent the main collective rights identified in UNDRIP have been incorporated into national legislation. This analysis demonstrated that, even though Peruvian legislation seems at first sight to do reasonably well on indigenous rights, its limitations

have a strong enough impact to result in pronounced rights claims and possibly conflicts with the State.

Chapter Five considered the actual impact and implementation of current legislation and policies involving indigenous collective rights and identified the rights claims of the Awajún respondents. Responses clearly showed that the denial of collective rights had a far-reaching impact on the daily lives and quality of life of the participants, both as individuals and as a community. The identified rights claims could be divided into three categories: rights claims that deal with collective rights that are specific to indigenous peoples and are essential aspects of the indigenous right to self-determination; rights claims that concern general rights but with specific indigenous and collective implications; and rights claims that involve the denial of general rights that is the result of or at least linked to their specific circumstances as indigenous. It was emphasized that addressing these claims is essential for long-term social change and that they should therefore be incorporated in any conflict transformation approach that involves the Awajún.

Chapter Six examined how respondents characterize their relationship with the State and what they consider as the main causes of conflict. From the responses, it was clear that respondents consider the violation of certain collective indigenous rights as the main cause of conflict between the Awajún and the State, indicating the importance of focusing on collective rights claims for tackling and preventing conflicts with the State. Their current relationship of distrust and lack of respect exacerbates the situation, indicating the necessity to focus on the relationship between the conflicting parties in order to transform these conflicts. The findings in Chapter Six therefore confirm that these conflicts are best handled by an approach based on the principles of conflict transformation, which include a focus on relationships, combined with a focus on addressing collective rights claims.

Chapter Seven examined respondents' views on how to improve the relationship with the State and prevent future conflicts. By identifying which changes and initiatives would contribute to the transformation of conflicts between the State and the Awajún, respondents have also determined the main

collective rights claims that as a minimum should be addressed in a conflict transformation approach including increased self-determination, respect for their land and resource rights and their right to determine their own development model. In addition, the establishment of respectful contact and true dialogue as well as mechanisms allowing indigenous parties to become equal partners in the decision-making process on matters that affect them were identified by respondents as essential elements of a conflict transformation approach.

8.1. The articulation and shaping of rights claims

Similarly to other indigenous peoples, as was discussed in the introduction, the Awajún's rights claims are mainly determined by their distinctness as an indigenous people from mainstream society and from other non-indigenous minorities as well as by their specific characteristics linked to their indigenous identity, including their strong attachment to their ancestral territories. However, the specific content and expression of these rights claims are shaped by the local context, including the historical and political background, existing legislation on collective rights and its implementation and their relationship with the State.

Collective rights claims are a relatively recent phenomenon in Peru because of its history of marginalization of indigeneity, which has repressed indigenous awareness of collective rights and as such delayed the organization of indigenous people to claim their rights. However, a strong increase in rights awareness, partly because of a growing international indigenous rights movement, and the State's continued insistence on a national development discourse that negatively affects essential collective rights have resulted in more intense rights claiming by the Awajún and other indigenous peoples. This has also forced the Peruvian State, in addition to the growing international indigenous rights framework, to incorporate indigenous rights to a certain degree in their legislation and policies.

The current policies concerning indigenous people in Peru appear to include most major collective rights, but only to a limited and insufficient degree. The current limitations hinder the realization of essential collective rights sufficiently

to result in strong rights claims by indigenous people and possibly conflicts with the State. In addition, as can be concluded from the responses of the research participants, even existing policies are often not adequately implemented, which results in even more frustration among the Awajún with the State, a hardening of their rights claims and increased conflict potential.

Indigenous rights claims are clearly directed towards the State as the duty-holder to respect, protect and fulfil indigenous rights and therefore the relationship with the State also has a strong impact on the specific articulation of rights claims. It was clear from the participants' contributions that the perceived lack of respect for the Awajún by the State and the Awajún's deeply rooted distrust of the State have contributed in shaping their rights claims. As a result, the latter are articulated in stronger terms and the indigenous party is also less likely to negotiate or settle. Conflicts are more likely to arise or to escalate. Therefore, a strong articulation of rights claims also has important implications for conflict transformation.

8.2. Main causes of current conflict between the Peruvian State and the Awajún

According to research participants, the main causes of conflict between the Awajún and the State are collective rights violations and a problematic relationship characterized by distrust and a lack of respect. The collective rights violations most likely to escalate and lead to violent confrontation are those related to their territorial integrity and in particular the threat of extractive activities to their ancestral lands, natural resources and the environment they live in. The granting of mining or oil concessions, the approval of extractive exploration or exploitation activities, oil spills or other forms of contamination of water sources or lands have all been recent triggers of conflict escalation between the State and the Awajún or other Amazonian peoples. In particular the lack of consultation by the State when making decisions that affect this territorial integrity causes deep frustration among the Awajún, especially since there has been a Prior Consultation Law for many years now.

While it is often a specific project threatening their ancestral territories that is the direct provocation of a conflict, it is of great importance to identify the structural violations of collective rights since these will necessarily have to be tackled to achieve real change and long-term conflict transformation. From the responses by research participants, it could be concluded that these include the flawed land titling process resulting in communities waiting for years to receive titles or land extensions, the gradual decrease in the legal protection of indigenous lands and the flawed artificial construct of Native Communities as the indigenous unit to which collective rights are assigned, preventing both territorial integrity and self-determination as a people. While the direct provocation of the high-profile deadly *Baguazo* conflict was for instance a non-consulted mining project on Awajún ancestral territory threatening their water source, the more structural causes were linked to attempts by the government to seriously cut back the protection of indigenous lands.

In addition to these collective rights violations, the conflict potential between the State and the Awajún is also exacerbated by their detrimental relationship marked by distrust and a lack of respect. It is not only likely to escalate a conflict more easily but it also makes reaching any kind of agreement much more difficult. An important factor in the quick escalation of the *Baguazo* for instance was what the Awajún refer to as the State's 'history of deceit' on this particular mining project that was the trigger for conflict escalation. While the Awajún had agreed to give up part of their ancestral territory in favour of a national protected area, the government later lifted this protection and granted a mining concession on part of the land. The Awajún had given up their protest already once before after the government had made promises, which they did not fulfil, so they were not about to stand down again without some concrete results when the police moved in to dislodge their road blockade. In order to be effective, a conflict transformation approach for conflicts between the Awajún and the State necessarily needs to address the causes identified by Awajún respondents, i.e. collective rights violations and a negative relationship with the State.

8.3. A rights-based approach to conflict transformation for Awajún - State conflict

Collective rights violations were identified as the root causes of current and past conflicts between the Awajún and the State and an approach to transform these conflicts should therefore be based on the main collective rights claims of the Awajún. This central role of rights claims in transforming current conflicts and preventing future violent outbursts confirms that a rights-based approach to conflict transformation is the most suitable for conflicts between the Awajún and the State. As was discussed in Chapter One, a right-based approach to conflict transformation is ideally applied to rights-based, asymmetric and latent conflicts between the State and a disadvantaged group. Conflicts between the Awajún and the State therefore appear to be a perfect context for this approach, since they are clearly rights-based, i.e. the main causes are rights violations, they are asymmetric, i.e. there is a large power disparity between the Peruvian State and the Awajún, and currently these conflicts remain mostly latent although there are occasional escalations¹⁷⁵ and as some respondents clearly implied, there is the potential for the current collective rights violations to lead to larger violent confrontations similar to the *Baguazo*. Therefore, addressing these rights claims is of paramount importance if this is to be avoided.

In Chapter One, the general principles as well as some of the main strategies of a rights-based approach to conflict transformation were already discussed, but as was mentioned as well, adaptation to the local context is a crucial aspect of this approach. This study identified the main aspects of a rights-based conflict transformation approach for conflicts involving the Awajún and the Peruvian State. Addressing collective rights claims and implementing strategies aimed at improving the State- Awajún relationship were deemed as the foundation of this approach.

It was found in this study that, even though there is a wide variety of rights claims, there is also strong agreement on which rights claims should be prioritized. While these rights claims range from specifically indigenous to more general rights claims, they are all clearly determined by the indigenous identity of the research participants. The rights claims identified as to be prioritized that

¹⁷⁵ For instance, in 2017, a group of Awajún attacked a miners' camp in the *Cordillera del Condor*.

deal with collective rights that are specific to indigenous peoples include their right to their traditional territories and natural resources, their right to determine their own development, their right to be consulted on matters that affect them and their right to their own indigenous institutions and a certain level of self-government. These are also all essential elements of the indigenous right to self-determination. It is therefore no surprise that respondents identified increased self-determination in general for the Awajún as a people and more specific measures that would lead to more self-determination in different aspects of their daily lives as the main strategies to address these rights claims.

This increased self-determination as a people should be based on the principle of territorial integrity and therefore focus not only on fulfilling and strengthening the land rights of Native Communities, which nevertheless could be a starting point, but strive towards the eventual restoration of the Awajún's ancestral territory, within which their natural resource rights are respected and protected. In addition, respect for and promotion of their right to determine their own development model was identified as crucial for the transformation and prevention of conflicts with the State. This necessarily entails as a first step a switch in the State's development policies for the Amazon region from a sole focus on large-scale extractive activities to the promotion and support for indigenous economic activities and priorities such as sustainable, small-scale agriculture or an increased role for indigenous people in forest management. If the State does not effectively address this particular issue as an absolute priority, respondents predict, some more explicitly than others, that there will be more violent confrontations similar to the *Baguazo*.

However, responses indicate that some Awajún are open to extractive activities as long as they are included from the early phases of a project and are the main beneficiaries and only if it does not contaminate their environment and lands. This re-affirms the importance of the consultation of indigenous people on matters that affect them in a conflict transformation approach. While the end goal should be the adequate implementation of the principles of free, prior and informed consent as it is included in UNDRIP, a measure that is an absolute minimum requirement in order to avoid future conflict but that is relatively easy to be carried out with a potentially strong positive impact on conflict

transformation, is the proper implementation of the Prior Consultation Law that is already in force.

It should be stressed that none of the research participants expressed claims for secession from the Peruvian State but instead support the foundation of an Awajún Nation within the Peruvian State, with internal self-government and its own institutions that are respected as equal partners by the State. Even without the State's approval, the Awajún have started organizing themselves and moving towards this end goal of an Awajún Nation, as their neighbours the Wampis have done before them. Research participants were unanimously enthusiastic about this initiative and believe this could be the solution to all their current problems, including their problematic relationship with the State because of the stronger position they would have as a united Awajún people. According to them, the foundation of a self-governing Awajún Nation would lead to the full realization of their collective right allowing them to regain control over their own daily lives and as such considerably increase their quality of life.

As mentioned, an Awajún Nation would be positioned within the Peruvian State and respondents made it very clear that they are and will remain part of the Peruvian State. This increased self-determination should not impede a more prominent role for Awajún and other indigenous peoples within the State and its institutions. In fact, a stronger indigenous participation and representation in the government was also identified as an important aspect of conflict transformation, since more indigenous professionals in all government institutions and all levels of government would lead to policies and decisions that are better adapted to the needs of indigenous people and take their collective rights into account. In addition, many participants emphasized the need for a separate government institution that represents indigenous interests instead of the current arrangement.

Even though many respondents acknowledge the efforts and progress made in education and healthcare for indigenous peoples, these subjects still account for some of the most common rights claims. Respondents pointed out the many flaws in the implementation of the current policies on culturally appropriate education and healthcare that incorporate their indigenous culture and

language. Since education and healthcare have such a high impact on quality of life, these flaws need to be addressed as well in order to achieve the required long-term changes for sustainable conflict transformation.

While addressing the above collective rights claims is the foundation of a rights-based approach to conflict transformation for conflicts between the State and the Awajún, improving the relationship between these two parties should also have a prominent role in transforming these conflicts, as pointed out above. The conflict transformation approach, as opposed to conflict management or resolution, entails a strong focus on relationships and therefore some of the strategies typically used by conflict transformation practice can be applied here. The relationship between the State and the Awajún is currently characterized by the Awajún's lack of trust in the State and their perception that the State does not respect or care about the Awajún, their culture and their rights. To gradually build trust and understanding, an official dialogue space should be created where the State and the Awajún regularly come together to engage in constructive problem-solving as equals and in good faith, which requires that the State does not impose its views and allows for maximum input by Awajún representatives. It is equally crucial that the Awajún are properly represented by those instances or individuals that were chosen by them instead of selected by the State and only represent a compliant minority. Positive interactions can address any negative attitudes and stereotypes both sides may hold of one another. In addition to an institutionalized dialogue guided by the principles of transparency, participation inclusion, accountability and ownership, the State should also show their concern and respect for the Awajún by increasing their efforts to learn more about their culture and daily reality, visiting their communities, talking to people and listening to their needs to make sure they adapt their policies accordingly. The fact that Awajún respondents identify a closer relationship and cooperation with the State as crucial for conflict transformation shows that they highly value their Peruvian identity and place within the State.

An additional aspect of this rights-based conflict transformation approach should be added. Several respondents lamented that the only way their grievances receive any attention from the State is when they apply strategies

that disturb the economy or Mestizo society such as strikes, protests or roadblocks. This indicates that there is a strong need for mechanisms through which the Awajún, but also other indigenous and non-indigenous right-holders, can make rights claims, raise discontent and seek redress as an alternative to protest activities or violence.

Lastly, even though the Awajún can count on an increasing number of Awajún professionals that are more than capable to stand their ground, conflict transformation practitioners can play a facilitative role but also support the Awajún through non-adversarial advocacy, i.e. advocacy in favour of certain values instead of parties, to make up to a certain degree for the power disparity with the State in this conflict transformation process. This entails challenging the status quo while maintaining a problem-solving orientation.

Of course, the above is just an outline of the main aspects and principles of the rights-based conflict transformation approach for conflicts between the State and the Awajún based mainly on the contributions of Awajún research participants. The specific details and the practical implementation of this approach need to be discussed and formulated cooperatively by State and Awajún representatives in for instance the institutionalized dialogue space that was described above. This study shows the importance and value of not only rights claims but also of the contributions and opinions of regular Awajún regarding solutions. Some of the respondents' suggestions that were included in Chapter Seven are concrete actions that the State could fairly easily take. Taking their contributions truly into account and working together throughout the conflict transformation process and beyond, thus increasing ownership of the process, will only add to the potential to succeed in obtaining long-term sustainable change, a more positive relationship between the parties and as such true conflict transformation.

8.4. Potential application for all indigenous people in Peru

The question now arises if this conflict transformation approach can potentially be applied to the other indigenous peoples of Peru or if it is unique to the Awajún people. The complicated Peruvian indigenous context makes a general

answer to this question impossible. The differences in history and context between Andean and Amazonian indigenous peoples are too significant to generalize. Therefore, the potential for application of this conflict transformation approach will be different for fellow Amazonian peoples than for indigenous peoples of the Andes.

While each Amazonian people's history differs to a certain degree, i.e. some were contacted much earlier or much more intensively than the Awajún, there are many cultural and socio-economic similarities among Amazonian peoples and their relationship and conflicts with the State are very similar. While each Amazonian people has its own specific culture, these cultures do have much in common, for instance they all strive for *buen vivir* or the 'good life' in harmony with their natural surroundings and according to their worldview. Media reports on conflicts involving other Amazonian communities as well as the monthly Ombudsman reports¹⁷⁶ on conflicts in Peru appear to confirm that the great majority of conflicts are directly provoked by problems linked to the execution of extractive activities such as mining and oil exploitation and their implication for indigenous lands and natural resources. National Amazonian organizations recognize as the more structural causes of these conflicts many of the same collective rights violations as were identified for the Awajún, including delayed land titles, denial of territorial integrity, very limited autonomy within the Native Communities construct, and a lack of proper representation and participation.

Taking these overlaps into account, it can be claimed that the general lines of the proposed approach can be applied to conflicts involving other Amazonian peoples. Naturally, each indigenous group, even within the Amazon region, has its own particular history with the State and its own specific indigenous identity, which implies that a conflict transformation approach for each specific people requires a certain degree of adaptation to the specific context. Adaptation to the local context or localization is an essential feature of any rights-based approach to conflict transformation, which acknowledges that, while indigenous rights are non-negotiable concepts, their interpretation and application is necessarily context-specific. This entails taking local culture, history and traditional

¹⁷⁶ The monthly reports by the *Defensoria del Pueblo* or the Ombudsman can be found on their website: <http://www.defensoria.gob.pe/conflictos-sociales/home.php>

mechanisms into account but also simply relating rights to people's daily lives and experiences through locally-designed and context-specific initiatives, which results in a local and shared ownership of the conflict transformation process and thus increases its chance to success (Nderitu 2010). In conclusion, the proposed approach can be applied to conflicts involving other Amazonian peoples but similar research should be carried out to ensure adaptation to the local context and additional specific rights claims a particular people may have.

In Chapter Three, when explaining Peru's historical and political indigenous context, it was evident that there are significant differences between indigenous peoples in the Amazon and those in the Andes. Not only do their ways of life and traditions strongly differ from one another because of the very different environments they live in, i.e. tropical rainforest versus the cold mountain plains, Andean people have also gone through a very different colonization experience and endured earlier and more aggressive assimilation strategies than Amazonian peoples. However, the majority of conflicts between Andean communities and the State are also a direct cause of extractive activities, mainly mining, as can be concluded from the Ombudsman's monthly reports and are therefore also linked to collective rights violations, mainly of land and natural resources rights.

In addition, both Amazonian and Andean peoples are subject to the same national legislation, even though there are several specific laws for either Peasant Communities or Native Communities, and they share a history of marginalization of indigeneity, discrimination by mainstream mestizo society and the threat of a national development discourse. These commonalities as well as the shared characteristics of conflicts with the State seem to suggest that a similar rights-based approach to conflict transformation could be applied to a certain degree for conflicts between the State and Andean peoples provided adaptation to the Andean context and culture. However, further research with Andean peoples would need to be carried out to confirm this.

Since many of the issues identified in this study are true for indigenous people in other parts of the world, for instance the threat of a national development discourse and a history of assimilation and discrimination, and since many

conflicts between indigenous peoples and the State have the same root causes, i.e. the violation of their indigenous collective rights, it could even be claimed that a similar rights-based approach to conflict transformation as proposed in this study could be applied in other countries with a marginalized indigenous population as well. Again, this would require a comprehensive adaptation of the approach to the local context and indigenous culture and warrants further research.

8.5. Contributions to the field

While there has been research on the role of human rights in conflict transformation and how human rights and conflict transformation can cooperate to achieve 'just peace', to our knowledge there has been no true attempt yet to define and characterize a rights-based approach to conflict transformation for conflicts involving indigenous people. This research project has not only identified the general principles of such an approach but has shown how this approach can and should be adequately adapted to a specific context and indigenous people, i.e. a decolonized research approach focusing on the rights claims of indigenous participants.

In particular, the result of this study, i.e. a proposal for a rights-based conflict transformation approach for conflicts involving the Peruvian State and the Awajún, can assist both the Awajún and the State to adequately address the root causes of current conflicts, decrease future conflict potential and make sure that violent confrontations such as the *Baguazo* never occur again. The study also confirms the importance of analysing collective rights claims when dealing with conflicts involving indigenous people as well as the central role of not only the more direct violations of indigenous collective rights but also their structural denial in causing conflicts. The conclusions of this research can therefore support the Awajún's and other indigenous peoples' advocacy efforts towards the realization of these rights. When agreeing to participate in the research, several participants expressed strong interest in the results of this study and asked to also publish its results in Spanish so it could be used by both State actors to address conflicts with indigenous people and by indigenous actors to

support and guide their advocacy efforts and assist in determining their own strategies and priorities towards the State.

An additional contribution of this research to the field of indigenous studies is its focus on the indigenous perspective, which is still heavily underreported in academics. Although decolonized approaches have gained some popularity, this has occurred mostly in countries with a much longer tradition of indigenous rights advocacy such as Canada or the United States. In Peru, unfortunately, the perspective and views of regular indigenous people have been mostly ignored by research, as confirmed by research participants, who clearly believe that their input and perspective have been mostly disregarded and dismissed as uneducated and ignorant. They were therefore enthusiastic about the particular focus of this research on their perspective. This study demonstrates the value of a focus on the indigenous perspective and a decolonized research approach and shows that outsider researchers as well can conduct ethical research on indigenous issues and with indigenous participants provided they apply a decolonized approach. It also shows the added value of cooperative research between an insider and outsider researcher, where the two researchers complement each other's specific strength.

8.6. Future research

The rights-based conflict transformation approach proposed by this study was specifically formulated for conflicts between the Peruvian State and the Awajún but as mentioned above, it could also be applicable to other Peruvian Amazonian peoples and potentially even to the indigenous peoples of the Andes, provided adaptation to the local context and culture. However, even though there are many similarities, as was demonstrated above, each indigenous people in Peru has its own specific culture and context and therefore additional research should be carried out to corroborate the findings of this study for other indigenous peoples in Peru. In order to determine the specific details and required adaptations for other indigenous peoples, similar research applying a decolonized study design and focused on the indigenous perspective should be carried out.

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Appendix: List of research participants and main characteristics

Name	M /F	Age	Location	Education	Current occupation	Experience
Nancy Daty Tsajuput	F	40	C.N. ¹⁷⁷ Annex Sása-Duship	3 years of secondary education	<i>Etséjin</i> (preacher) of the Catholic Church ¹⁷⁸	Seamstress
Oscar Paati Antunce	M	53	C.N. Annex Nueva Samaria-Uut	Some higher education but did not complete degree	Awajún leader	Primary school teacher; Former president of OCCAAM ¹⁷⁹ ; Former district <i>regidor</i> ¹⁸⁰ ; Former secretary of CONAP ¹⁸¹
George Tsajuput Tiwi	M	31	C.N. Anexo Sása-Duship	Trained as nursing technician; currently studying an education degree	Primary school teacher	Nursing technician at the health center of Imacita; Primary school teacher
Rouse Mery López Samik	F	18	C.N. Centro Poblado Yutupis	Secondary education	Student	Student
Efraín Kinin Paati	M	27	C.N. Nvo. Salem-Uut	Degree in education (specialized in Intercultural, Bilingual Education and in Spanish)	Teacher	Contracted teacher in Communication
Víctor Kinin Shaag	M	54	C.N. Nuevo Salem-Uut	Primary education; trained as agricultural technician	Agricultural technician	Former leader of the CN Uut; Field technician in Nuevo Salem-Uut

¹⁷⁷ *Comunidad Nativa* or Native Community

¹⁷⁸ She was named as Messenger of God or Preacher by the Bishop of Jaén, Amazonas.

¹⁷⁹ *Organización Central de Comunidades Awajún del Alto Marañón* or the Central Organization of Awajún Communities of the Alto Marañón.

¹⁸⁰ A local governor

¹⁸¹ *Confederación de Nacionalidades Amazónicas del Perú* or the Federation of Amazonian Nationalities of Peru

Frank Pujúpat Paati	M	33	C.N. Nvo. Salem-Uut	Finished 1 year of secondary school	Community secretary	Former leader of C.N. Nuevo Salem - Uut
Simón Wipio Bijúch	M	49	C.N. Urakuza, Provincia Cordonc anqui	Higher education	Agricultural technician	Nurse technician; Health technician; Justice technician; former missionary; former leader of the organization Chapi Shiwag ¹⁸² ; Former president of OAM ¹⁸³ ; member of OCCAAM's Special Commission on Indigenous Rights; former legal consultant for ORPIÁN-P ¹⁸⁴
Magdalena Kajekui Timias	F	50	C.P.M. ¹⁸⁵ Imacita	Currently studying Education	Student	Former president of the <i>Club de Madres</i> ¹⁸⁶ ; Former president of FEMAAM ¹⁸⁷
Fidel Yuu Pujúpat	M	41	C.N. Nueva/Imacita	Graduated from secondary school; studied afterwards 3 years at the Nazarene Bible Institute	<i>Teniente Gobernador</i> ¹⁸⁸	Former leader of C.N. Tutumberos; Former leader of C.N. Kuji; Former President of the local <i>Rondas</i>

¹⁸² *Organización Awajún de San Lorenzo, Loreto* or Awajún Organization of San Lorenzo, Loreto

¹⁸³ *Organización Aguaruna del Alto Mayo, San Martín* or Awajún Organization of the Alto Mayo, San Martín

¹⁸⁴ *Organización Regional del Pueblo Indígena de la Amazonía Norte del Perú* or Regional Organization of the Indigenous People of the Northern Amazon of Peru

¹⁸⁵ *Centro Poblado Municipalidad* or Population Center Municipality

¹⁸⁶ The Mothers' Club

¹⁸⁷ *Mujeres Aguarunas del Alto Marañón* or Awajún Women of the Alto Marañón

¹⁸⁸ The *teniente gobernador* or lieutenant governor represents the President of the Republic and the Executive Branch in his jurisdiction, which may include a town, village, annex, minor settlement or similar, and is an ad-honorem position. The lieutenant governor depends administratively and functionally of the Governor of its respective jurisdiction.

						<i>Campesinas</i>
Delicia Nugkum Tuyai ¹⁸⁹	F	31	Anexo C.N. Sása - Duship/I macita	4 years of primary school	Housewife	President of <i>Club de Madres</i>
Carmen Tsapujut Yampan ch	F	49	Anexo C.N. Sása - Duship/I macita	Secondary education	Housewife	Workshops with Awajún women
Tito Tsajuput Yampau ch	M	60	Anexo C.N. Sása - Duship/I macit	1 year of secondary school	Community leader	Former community leader; Awajún leader and cultural trainer
Alejandro Tsajuput Yampan ch	M	61	C.N. Duship/C hiriaco	Higher education in primary education	Coordinator of <i>Rondas Campesinas</i>	Teacher; former local coordinator of UCSS ¹⁹⁰ ; former district governor
Pilar Sofía Tiwi Uwarai	F	19	C.N. Uut/Chipe	Secondary education	Student at academy preparing for university	Student
Joel Kashkun Yaún	M	23	C.N. Pakún	Secondary education	Glassmaker	Military service
Fredy Tsajuput Tiwi	M	23	C.N. Anexo Sása - Duship	Secondary education	Glassmaker; Student of Business Administration Assistant	Student
Isaac Paz Suikai	M	46	C.N. Nazareth ;	Higher education: degree in business administration; did not complete degree in international business	Official translator and interpreter	Linguistic assistant and official translator and interpreter
Elga Uwarai Chimpa	F	54	C.N. Chipe	Pharmaceutical technician	Freelance work	Operator of fish, fruit factory
Jorge Sarasara Samecash ¹⁹¹	M	58	C.N. Bajo Naranjillo	Attended Catholic Seminary	Consulting for C.N. Bajo Naranjillo	Former president of OAM

¹⁸⁹ Interview in Awajún

¹⁹⁰ Universidad Católica Sedes Sapientiae

¹⁹¹ Jorge passed away in 2017

Manuel Reátegui Untsúch	M	60	C.N. Bajo Naranjillo	Completed 3 years of secondary education	Farmer	Rice farmer
Marcial Sarasara Samecash	M	49	C.N. Bajo Naranjillo	Secondary education	Farmer	Former Justice of the Peace
Ezequías Atamain Uwarai	M	35	C.N. Río Soritor	University degree in computing	President of the Shuar Community	Translator of the Bible - Interlineal Greek
Clara Paati Ayui	F	51	C.N. Shampu yaku	Higher education degree in early childhood education	Control of communal tolls	Former primary school teacher
Arlita Betsy Antuash Paati	F	25	C.N. Uut - Shampu yaku	Higher education degree in early childhood education	Early childhood teacher	Early childhood teacher
Leonidas Majuash Asagkai	M	49	C.N. río Soritor	Higher education degree in primary education	Teacher	Teacher
Eliseo Atamain Uwarai	M	32	C.N. río Soritor	University student in systems engineering	Student	Computer technician
Lizet Atamain Uwarai	F	30	C.N. río Soritor	University student in international business	Student	Awajún culture
Jacob Shajian Hidalgo	M	39	C.N. Uut	University degree in linguistics	Advisor to indigenous organizations	Technical consulting for indigenous organizations
Esteban Pujupat Sejekam	M	69	C.N. Nueva Vida	Higher education in Pedagogy	Advisor to indigenous organizations	Retired teacher
Francisco Javier Akintui Tsajuput	M	30	C.N. Wachap ea	Higher education in fine arts	Music teacher	Music teacher
Rodrigo Akuts Tsumu	M	43	C.N. Alto Pajakus	Secondary education	Construction	Farmer
Lino Ludwing Akintui Tsajuput	M	21	C.N. Wachap ea	Secondary education	Member of a music band	Music